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ORANJE-VRYSTAAT

ADAMANTIA.

The Truth about the South African Diamond Fields:

OR,

A VINDICATION OF THE RIGHT OF THE ORANGE FREE STATE TO THAT
TERRITORY, AND AN ANALYSIS OF BRITISH DIPLOMACY AND
AGGRESSION WHICH HAS RESULTED IN ITS ILLEGAL
SEIZURE BY THE GOVERNOR OF THE
CAPE OF GOOD HOPE.

BY

CAPTAIN AUGUSTUS F. LINDLEY,

AUTHOR OF "TAI PING TIEN KWON: THE HISTORY OF THE TAIPING REVOLUTION;"
"THEODORE'S CASE;" "THE LOG OF THE 'FORTUNA';" ETC., ETC., ETC.

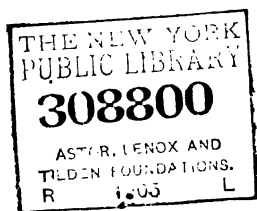
"WHEN THE TRUE NOTION OF JUSTICE BECOMES OBSCURED, MATERIAL FORCE
TAKES THE PLACE OF RIGHT."—*Pius IX.*

"AMITTIT MERITO PROPRIUM QUI ALIENUM ADEP̄TIT."—*Phaedrus.*

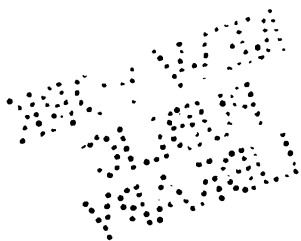
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PREFACE.

THIS is a book with a purpose. Its object is to inform the British Parliament and the British public how their Government has robbed the Orange Free State (one of the two South African Republics) of its diamond fields.

As the truth—and especially the truth in political affairs—is seldom palatable, I may expect to receive a certain amount of abuse; but I have faith in the strong sentiment of justice and “fair-play” which, it is to be hoped, still pervades the national character, and so look forward with confidence to obtain the approval of many who may venture to read the following pages. Ay, even more. I have the temerity to hope that the book may do some good—that it may help, in however small a way, to bring about the rectification of the great wrong it is its object to explain; for surely the asserted decline of England cannot have progressed so far as to make preposterous the expectation that, whatever case may be submitted to the British Parliament and people, justice will be rendered in spite of the Administration whose policy, as in this matter, has been illegal, unrighteous, and dishonourable.

During two years I have resided within the plundered territory, and having attentively observed the progress of political events, having all the time carefully studied the merits of the case, my impressions as to the manner in which the Orange Free State has been treated and wronged by the British Government, and especially by the late “irresponsible” Government of the Cape of Good Hope, and Governors Hay and Sir

H. Barkly, are naturally very vivid. If, in consequence, I may sometimes make use of expressions more forcible than moderate, or occasionally display a too intemperate zeal, I can only trust that this explanation, and the fact that my effort is solely for the cause of justice and England's honour, may be deemed my excuse.

Of course, if the sort of patriotism expressed by the Yankee toast—"To our country; may she always be right, but, right or wrong, our country"—be virtuous, then are my sentiments immoral. But I have yet to learn that it is nobler for a man to approve and glory in his country's evil deeds than to feel indignant at them.

As an Englishman, I am jealous of England's honour and *prestige*, and rank myself with those who hate to see her people blindly dragged into a petty, cowardly, and unworthy policy. I do not like to know how timorously, hastily, eagerly even, the Alabama Claims were conceded; whilst, at the other side of the world, the poor little Orange Free State was, at the very same time, so arrogantly bullied, so outrageously maltreated. It has well been said that history repeats itself; and, *certainly*, there is one lesson it may well teach in no faltering or uncertain tone—that when, like ancient Rome, a great nation thinks only of its luxuries, of buying off its enemies, and oppressing the very weakest of its neighbours, it has already commenced to decline, to fall from its high estate, and to tread the downward path whereon the same principle—that of the sword—by which it rose, will, in turn, be most ruthlessly applied to itself. Whether this be the result of a divine and active retributive justice, or the regular sequence of mere natural causes, has yet to be proved; but the result is assuredly one of the plainest of historical facts.

This is the thesis of the following work.

Immediately (in 1869) the fact became established that diamonds existed on the banks, and to the south, of the Vaal River, the Colonial Government at the Cape of Good Hope, aided and supported by sundry private individuals, entered into a selfish, illegal, and dishonourable combination to wrest the diamond fields from its rightful owner, the Free State. The

motives of some of the conspirators were undoubtedly merely personal and mercenary—to gain land, money, diamonds, fat offices, and extensive revenue; some were also inspired with hatred and jealousy (known to exist in certain Colonial circles) of the thriving Free State; others, probably including the several Governors mixed up in the affair, no doubt acted, at first, in good faith: but, ignorant of the merits of the case, were deceived and misled by their advisers and coadjutors.

I shall further maintain that *gross misrepresentation and false evidence* has been persistently supplied to the British Government by the late Colonial Administration, the last and present Governor. That for many years the territory including the diamond fields has been *de facto* and *de jure* part of the Orange Free State, by right of occupation and settlement, by right of purchase from original native owners, and by right of title actually transferred to it by the British Government in 1854! That the petty Griqua Chief, Waterboer, ostensibly for and through whom the Governor of the Cape (Sir H. Barkly) seized the diamond fields, *has not and never did have* any right or title whatsoever. Moreover, I shall show that, upon the strength of this trumped-up claim, the British Colonial authorities absolutely dared, *pendente lite*, by perpetrating a hostile invasion by armed force in time of profound peace, to enter, seize upon (in November, 1871), and ever since hold possession of a large tract of the Orange Free State (including the diamond fields); so that they were determined to have the precious stones and whatever emoluments might ensue in the way of land, revenue, and offices, even although it had not been proved that their claimant, puppet, man of straw, was entitled to the land, although it might eventually appear that it really belonged to its actual possessor, the Free State, and although their every act might be neither more nor less than illegal invasion and enjoyment—in other words, legal brigandage, filibustering!

Above all, I shall prove beyond question that, whereas Governor Sir H. Barkly was solely authorized by the Imperial Government to proclaim and annex the diamond fields, or the so-called “Griqualand West,” “*to the Cape Colony,*” *by and with*

"the consent of the Cape Parliament," after the passing of a "formal Act" for that purpose, and that he should then only annex such territory as "really belonged" to Waterboer, he actually had the temerity to seize and forcibly take possession of part of the Free State, in direct violation of those distinct conditions and commands in his commission! The Cape Parliament positively refused its assent to any such scheme, and the Government bill to accomplish the above conditions, by making the filibustering, and unwarrantable seizure of the territory *in advance* a legal act, having been finally repudiated and withdrawn in the Cape Parliament on the 7th of June, 1872.

From all charges, accusations, and censures upon the policy and transactions in question, I must specially exempt the newly-elected responsible Government of the Cape, also the Parliament and people of the Colony.

That the British people and Parliamentary representatives are unaware of these transactions, I am confident. That the narration may help to excite their indignation, amazement, and repudiation of the unrighteous acts, together with, possibly, compensation to the wronged and injured state, I most sincerely trust.

I have taken the adverse view of Waterboer's case and the motives of his interested supporters because there did not exist any other course for the sane and veracious historian; because a defence would be the support of fraud, perjury, and brigandage; and because, above all, it is my firm and conscientious conviction that right *in toto* is on the side of the Orange Free State, to whose cause, therefore, I have devoted my time and labour.

From a controversy I have lately had with the *Standard* and Mr. R. N. Fowler, M.P., it seems that there actually exists a small party of politicians who defend the illegal and dishonourable acts of Governor Barkly, Her Majesty's, and the late Cape Governments in this matter, upon the plea, forsooth, that the Free State has badly treated the native tribes around it—has not fulfilled to the letter the Shibboleth of fanatical Exeter Hall negro-philists!

In a letter which appeared in the *Standard* of December 14th, 1872, Mr. R. N. Fowler, M.P., chose to assert that the Orange Free State

"has violated every principle of justice in its dealings with its neighbours ;"

and offered to

"maintain that the conduct of that state has forced on Lord Kimberley the duty of protecting the feeble tribes which have suffered from their cruel aggressions."

In the *Standard* of December 18th I challenged Mr. Fowler to prove his words; denying them, meanwhile, as utterly unfounded both in letter and in spirit. Very prudently, he declined the challenge, refused to make good his accusations, upon the plea that he would not enter into a controversy in the columns of the *Standard*, although he had first used those columns as a medium to disseminate his calumnious assertions.

As far as Mr. Fowler's logic may be applied to Waterboer's Griquas, and the seizure of the diamond fields, the following pages will perhaps dispose of the matter.

By some inscrutable process of ratiocination Mr. R. N. Fowler declares that, because of the Free State dealings with the *Basutos*, Lord Kimberley was forced to protect the *Griquas* (a course by which the Free State has been shamefully robbed, and the treaty with that State has been deliberately violated). In the first place, the Basuto question has nothing at all to do with the case, nor has Earl Kimberley used it as his justification. Secondly, Mr. Fowler's premises are utterly false. He evaded my challenge, but yet professed his willingness to maintain his position in the House. I am quite prepared, and shall be happy to supply any member of Parliament with ample official evidence to refute his calumnious allegation,—that the Free State has perpetrated "cruel aggressions" upon the Basutos and certain "feeble tribes." Such an accusation is sufficient proof of Mr. Fowler's profound ignorance, not only of the history of the Orange Free State, but of the Basutos, other Kafir, and Griqua tribes of South Africa. It is evident that, from his own inner consciousness, Mr. Fowler has evolved the "noble savage," the Basutos; and that his erroneous conclusions are very far indeed

from being deduced from nature and experience. Well has a public writer lately observed—

“An intentional falsehood generally defeats itself, and its mischief is confined . . . Inaccuracy and its brood of evils reach much further ; for inaccuracy, in the great majority of cases, originates not in an intellectual, but a moral, habit, and may be a concession to prejudice or bias—an *unconscious determination to see things, not as they are, but as inclination would fain fashion them.*”

I have several times visited South Africa, have spent some years in travelling amongst and writing upon its various States and native tribes, and the above is the most charitable construction I can put upon Mr. Fowler's extreme inaccuracies.

To all in the slightest degree acquainted with South African affairs, it is a notorious fact that the Basutos always have been most dangerous neighbours, perhaps the greatest robbers, murderers, and marauders of all the Kafir tribes, denounced in 1851 by Governor Sir Harry Smith as “the most merciless and irreclaimable savages,” when hostilities broke out ; whilst, in 1853, Governor Sir George Cathcart, then on his march to attack the Basutos again, aptly described them as “a nation of thieves.” All the surrounding native tribes, Natal, the Cape Colony, the Orange River Sovereignty, and latterly, the Orange Free State, have suffered from the raids and aggressions of the Basutos, and all have been frequently driven to take up arms in self-defence. Indeed, from the Blue Books on the subject (1850 to 1855), it appears plain enough that the expenses and troubles caused by the Basutos, and which culminated in the war of 1853, were really the reasons which induced the British Government to abandon the Orange River Sovereignty, and abandon also, to the tender mercies of the Basuto barbarians, the white settlers, whom they were accustomed to butcher and plunder as their legitimate prey. The obliquity of mental vision by which Mr. R. N. Fowler has mistaken the peaceful, pastoral, industrious inhabitants of the Free State, for the perpetrators of those “cruel aggressions” upon “feeble tribes,” and every one else who ever came within their reach—the sanguinary and marauding Basutos—really constitutes a most remarkable and abnormal psychological phenomenon. My object in noticing Mr. Fowler's

unsupported *ipse dixit* and private opinion is simply, in advance, to dispute any such absurd defence of the policy pursued by Earl Kimberley and his colleagues towards the Free State.

It will, no doubt, be asked by many, What does England gain by the robbery of the diamond fields? Nothing, I venture to reply, but dishonour, obloquy, and hatred; loss of *prestige* and respect in one of those Colonial centres where a course of wise, just, and honourable policy would ensure an early confederation of States to the future strength, glory, and perpetuity of the British Empire. The policy of wronging the two independent South African States alienates thousands of white colonists, and inspires thousands more with detestation for such mean, incapable statecraft; yet it is in the great extent, and the prosperity, sympathy, of her colonies that England should possess a more powerful element of longevity than ever nation did before; whilst a policy of propitiation and *consolidation* of those colonies should insure her, as it were, against the decay which has ever overtaken the great powers of the past.

The expense of trying to govern the diamond fields absorbs whatever revenue is derived from them. The diamonds, too, are becoming exhausted, and it may not be long before the migratory digging population retires to whence it came, leaving only the barren plains of Adamantia, and Waterboer's two hundred semi-savages, as this last proposed appanage of the British crown. Meanwhile, arbitration and compensation loom ominously near at hand.

In concluding this introduction, I would point out, as "fair play" has long been appropriated as the national characteristic of Englishmen, and as they have agreed to pay three millions and a half in the Alabama case, through—what?—superfluous generosity or fear?—that they should now, from motives of fair play and justice, after restoring to the Orange Free State the land of which it has been plundered, pay to it a proportionate and equitable money compensation.

The efforts of Sir H. Barkly and his late irresponsible Government having failed to secure the annexation of the diamond fields to the Cape, their latest scheme to retain that territory has taken the form of an attempt to induce her

Majesty's Government to declare it a new and distinct Crown Colony; whilst arbitration is in course of negotiation; before it is known or proved that the land does not belong to the Free State, but to Waterboer, upon the sole authority of whose concession of that which he never possessed it has been seized upon *vi et armis*!

Against the approval or ratification of this proposed Act I would presume especially to warn the British Parliament and people, as it would be illegal and unjust, in the highest sense degrading to a great nation, and would assuredly prove a prolific cause of serious future troubles, arbitrations, and compensation.

Some may disapprove the animadversions passed in plain terms upon sundry officials in the following pages; they may not like the book, but then, nevertheless, I boldly venture to affirm, it is *true*.

AUGUSTUS F. LINDLEY.

February 3rd, 1873.

3, LLOYD SQUARE, LONDON, W.C.

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ERRATA.

Page 4, line 19,	„ „stocks”	„ „flocks”
„ 20, last line,	„ „ollam”	„ „claim”
„ 26, head line,	„ „Griqa”	„ „Griqua”
„ 48, line 9,	for “boers, the,” read	“the boers”
„ 66, last line,	„ „jusitfication”	„ „justification”
„ 153, line 30,	„ „this”	„ „it”
„ 206, „ 20,	„ „from”	„ „of”
„ 215, „ 22,	„ „F.”	„ „Farms”
„ 235, „ 34,	delete ?	
„ 241, „ 8 (right column),	„ „nor”	„ „not”
„ 241, „ 10, „ ”	„ „to”	„ „or”
„ 266, „ 26,	„ „distrfot”	„ „district”
„ 296, „ 32,	„ „give”	„ „given”
„ 360, „ 11,	„ „dromptly”	„ „promptly”

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ADAMANTIA.

CHAPTER I.

EARLY HISTORY. SETTLEMENT OF KORANAS AND KAFIRS.

AN ANCIENT TERRA INCOGNITA.—IT SUDDENLY BECOMES FAMOUS—
THE CAUSE BEING THE DISCOVERY OF DIAMONDS.—EXTENT OF THE
DIAMOND FIELDS.—POSSESSION DISPUTED.—TOPOGRAPHY OF THE
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MENT OF THE KORANA PARAMOUNT CHIEF, MASSAU RIJT
TAAIBOSCH.—PROTEST OF THE CHIEF AND HIS COUNCILLORS.—
DECLARATION OF PRINCIPAL BAROLONG AND BATLAPING KAFIR
CHIEFS IN SUPPORT.

THERE exists, far in the interior of Central South Africa, some seven hundred miles from the sea, a large tract of land, which, from the mists of an obscurity as old as its creation—from an utterly unknown and insignificant existence during those thousands of years—has suddenly become famous. Into such fame, indeed, has this erstwhile veritable *terra incognita* arisen, that now, during the space of three short years, the wondrous stories which are told of it—and which read more like old-world fables, or tales from the *Arabian Nights*, rather than records of these matter-of-

fact modern days—have been bruited abroad to every point of the compass, and have been wafted to even the uttermost ends of the earth.

Where, less than half a decade ago, an almost unbroken solitude prevailed, a great population has appeared, as if by magic. Those silent, desolate wastes, untrodden, in the past, save at very rare and distant intervals by some wretched, wandering bushman, scarcely more akin to humanity than the great herds of wild animals around him, and which only sought such arid plains whilst fleeing from an even more burning drought still further in the interior, now echo incessantly the noise of a great multitude. And where, at a few widely-separated spots, along the courses of the far-apart rivers, or at the occasional fountains, could be formerly found an utterly isolated Dutch *boer*, or farmer; there now exists the greatest population, the greatest gathering of both whites and blacks in South Africa!

The region which has experienced this sudden and stupendous change is, however, none other than that known as Adamantia, or the South African Diamond Fields.

The worship of Mammon, the almost universal passion for wealth,—especially for riches to be rapidly obtained—explains the seeming miracle very easily and satisfactorily.

Just as thousands flocked to the gold fields of California and Australia, so fled they to the desert spot in Central South Africa, where the glittering diamond was to be obtained in unusual quantities for the seeking.

Extending for many miles (at least two hundred as

positively known to contain diamonds) along the Vaal river, upward, from its junction with South Africa's largest river, the Orange, this territory stretches along both banks of the former. Its extent to the north, or, more accurately, north-west of the Vaal, is very limited at present, and mostly confined to the immediate vicinity of the river; but nothing is yet known as to the character and value of the ground even twenty miles away. Thirty miles south of the Vaal are the famous "dry diggings," in four separate spots, forming a cluster pretty close together, within a mile or so of each other.

No sooner had the fact that diamonds existed in these parts become established than two rival claimants suddenly appeared in the field to dispute the ownership of the hitherto-despised and ever-neglected ground. What had always been of as little importance to the world in general, and the nearest states in particular, as if it had never existed, was now destined to become the subject of a very serious controversy, and nearly the scene of a sanguinary conflict between the coloured natives and the three neighbouring colonies of whites.

The territory in dispute, extending from the junction of the Vaal and Modder rivers (a point about twenty-five miles above the junction of the Vaal and the Orange) about 100 miles up the course of the first-named stream, stretched out both to the north and south of it, some forty miles in each direction, embracing the whole of the known diamondiferous localities, and including, roughly, an area of 10,000 square miles.

The centre of this oblong region is situated in about lat. $28^{\circ} 40'$ S., and long. 25° E., close to a bend of the

Vaal, which, with many serpentine twists and turns, runs mostly through its middle. Its length, according also with the main direction of the river, extends from S.W. to N.E.; its breadth from N.W. to S.E.

It is bounded on the S.E. by the Orange Free State; on the N.E. by the Transvaal Republic and various Kafir tribes; on the N.W. by Kafirs and Koranas; on the S.W. by the Griquas, or Bastards, under the chief Waterboer. These boundaries are quite accurate enough for all purposes of argument and description, the only exceptions being where, here and there, the bounding nations may be a little within the four straight lines of the right-angled oblong defined as the topographical diagram of the district.

The whole of this region comprises one of the most barren, unrelieved, and uninviting stretches of country it has ever been my lot to behold. Until diamonds were discovered, its only possible use was to support, at a few parts, the great stocks of sheep belonging to the solitary Dutch *boers* to be found within its wilds. Its soil, nourishing a scanty and coarse grass in detached tufts, a few straggling bushes of a low, utterly burnt-up appearance, known as "Vaal bush," with, at very rare intervals, a small and stunted specimen of that most hideous and useless of all exogenous stems, the South African thorn-tree, consists of a dry red sand thinly spread upon an original surface of solid trap rock and shale. The low hills breaking the level of these arid plains present a shining surface of bare rock to the sun's burning rays. Nature, in this ill-favoured land, possesses not one solitary beauty to elevate and please the mind of man. At a very few of the Dutch homesteads therein, a solitary thorn-tree can be found

near the door, and in such cases the inhabitants are not a little proud of their treasure. This is the one thing to break the utter desolation of the monotonous landscape. Day after day, month after month, year after year—ay, generation after generation—that ugly tree is the only object in nature for those far-isolated people to gaze upon. Fortunately, their feelings and perceptions are not of the keenest, and so they manage to live on, uncomplaining, and, I verily believe, satisfied. The aspect of this region always gave me the idea of what Gustave Doré would represent as some weirdly desolate scene in an unfinished world.

During nine months of the year, this charming country is, almost daily, either the theatre of terrific tempests of wind, hail, rain, thunder and lightning of a fearfully intense and unequalled power, or it is swept over by strong hot winds from the burning desert, at no great distance to the north-west. In the former case, so great is the elemental strife that one can half imagine the destruction of the world itself is imminent; in the latter you cannot feel, or see, or think of anything but intolerable heat and sand—sand being everywhere, in your mouth, eyes, and ears; above, around, beneath, and forming a dense red bank encompassing the horizon; a lurid glare prevails, whilst, ever and anon, with a terrific rush and moaning, a huge pillar of sand, reeling heavily to and fro, sweeps madly through the mist and semi-obscurity.

Not a pleasant region this; and it will readily be believed that some strong inducement—nothing less than diamond-mines, in fact—was required to arouse the aggressive propensities, as well as excite the annexing passion, of John Bull. But here, *en passant*,

I may as well explain that, when I accuse Great Britain and its Government of the political crimes to be exposed and protested against in this work, it is indirectly they have become responsible for them, not directly. The Colonial Government at the Cape of Good Hope being the actual perpetrators of the wrong, but for which the Home Government has become fully responsible, having sometimes authorized its representatives at the Cape, sometimes approved their unjust and illegal acts, and never, as they should have done, repudiated them.

For the purposes of this work a sufficient description of the position, aspect, and nature of the disputed diamondiferous territory has already been given, and it only remains to add that the three mid-winter months, June, July, and August, are really very magnificent weather; and that, here and there, like an oasis in the desert, along the banks of the few rivers, a scanty vegetation of low willow trees can be met with. But, excepting the common staple of the whole country—wool—to which diamonds are now added as a *temporary* production, until the deposits are exhausted—this region is a wilderness in every sense of the word. No grain, nothing of value, will thrive therein, so constant are the droughts. The solitary permanent industry being sheep-farming, and as the “runs” must necessarily be very extensive, some sixty to ninety farms would take up the whole of the 10,000 square miles contained within the territory; indeed, at the present time, almost the whole of it is so disposed of to some sixty or seventy *boers*.

The multitudes, the press of business, the energetic life and bustle at the few small spots known as the

diamond diggings, are all of a very temporary and evanescent nature; and already (October, 1872) are beginning very sensibly to decrease.

In order to deal with the territorial question and dispute in a thoroughly exhaustive manner, it is necessary to make this work a complete political history of the diamondiferous region, or, as it has been more euphoniously named, Adamantia. It is necessary to satisfy those who might feel inclined to construct some theory of tenure or territorial right from the original or aboriginal inhabitants; so we will commence *ab initio*, that is to say, from so far as the beginning is known, and that is not more than a century to a century and a half ago. It is certainly a very new country so far as population is concerned, though, from its own natural qualities, most who look upon it, admitting that it was commenced, are very positive that it has never yet been completed.

Like most parts of Africa, neither ruins nor remains of any sort exist to guide the antiquarian and anthropological student—nothing but a few erratic native legends—a few records handed down from family to family of the Dutch or emigrant *boers*.

Upon one point, however, all evidence seems unanimous, *viz.*, that until the *boers*, moving north of the Orange river, in the beginning of the present century, occupied the ground, certain portions of it never had been held, nor possession ever retained by any natives whatsoever.

It is true that both tradition and the reports of these pioneer white men establish the fact that there were, even far back in the eighteenth century, a race of aborigines in Adamantia, but these were Bushmen, and were never found except along the bush and caves

immediately upon the banks and courses of the rivers—the country away from the streams and water being simply unoccupied and uninhabited.

Whether, at any former period, this miserable and degraded people held possession of the plains must ever remain unknown; but it is pretty certain that, more than a hundred years ago, their numbers were greatly reduced by the first incursions and appearance in those parts of the tribes of Hottentots and Koranas. These, driven northward by the wars between themselves in what is now known as Namaqualand and the Cape Colony, as well as by the arrival of Portuguese and Dutch, who, as is usual in such cases, soon began to make the contact with the civilized man pretty heavily felt by him uncivilized, gradually retreated further and further, fled, or were driven back from the sea coast to the interior, following, naturally enough, the river valleys and channels. Being, in this way, brought to the first-known inhabitants of Adamantia, Nature's great process at once commenced. The Koranas had just escaped from stronger men who would destroy them; they now, with a charming phlegm, at once began to destroy the first they encountered, because weaker than themselves. It does not appear that, even in their most halcyon days, the poor Bushmen ever possessed anything like numerous flocks and herds—they never were, in any sense of the word (so far as present information tells), a pastoral people; never patronized any branch of industry; but have ever been known as a malicious, malignant, impish little race of stunted beings—neither man nor monkey, but a fair proportion of each—particularly addicted to holes, roots, hiding like wild animals, and poisoned arrows.

Whether they first robbed and murdered the Koranas, or the latter began with them, history showeth not, but, as they probably had not anything worth stealing, the chances are that either they commenced a little cattle-lifting at the expense of the strange wanderers, or these set to work butchering them purely for pastime and from habit.

Over a great expanse of country this Bushman exterminating process went steadily forward a century ago. In Namaqualand, to the west of the present Adamantia, and more or less all along the valley of the Orange river, even up to the Drakensberg mountains. In all directions the Koranas poured in, to be followed by other tribes known as Hottentots, and these to be in turn succeeded by bands of half-caste or mongrel Bastards. As the Kafir tribes were thick and numerous in the rear, the wretched Bushmen were caught between two fires. Those who escaped the muskets of the yellow-skinned emigrants only ran upon the *assegais* of the blacks. The dwarfish race almost vanished from the face of the earth.

It is as well to explain that the Hottentots, Koranas, and Bushmen seem really very nearly allied. The two former have the same Malay, or Mongolian, appearance, but with very short and scanty wool instead of hair; they are the same dirty yellow complexion, of the same light, wiry build, and speak, or chatter, just like monkeys, the very same extraordinary language of clicks; the only difference in the case of the Bushman being that he is a more puny, hideous, and altogether more abominable variety of the same species of man. The Bastards, a very mixed race between all three, with a mingling of both white and Kafir blood, are

now known as Griquas—*i.e.*, a mixed people. Native tradition gives a very concise account as to the origin of the names Hottentot and Korana.

There were two brothers, Kora and Hottentot; the latter remained in the Cape Colony, and the descendants of the former emigrated and crossed the Orange River, under the Taaibosch,—the family name of the present hereditary and paramount chief of the Korana tribes.

For my part, I consider that the best claim to sovereignty, title by hereditary succession, or territorial right over the disputed lands north of the Vaal, is put forward by the Koranas, and, in order to prove the same, I have obtained the following deposition and documents specially for this work.

STATEMENT OF THE PARAMOUNT CHIEF MASSAU RIJT TAAIBOSCH,
OF THE KORANA TRIBE AND PEOPLE RESIDING IN THE MAMUSA
TERRITORY.

We hold the following correct, and are prepared to prove the same by indisputable evidence.

“My father and the Chief Jan Taaibosch were brothers’ children. Jan was the recognized paramount chief of the entire Korana people. Our forefathers, as chiefs of our nation, resided formerly at and occupied the ground now known as Capetown, and became dispossessed of the same by the first white inhabitants, *viz.*, the Portuguese; hence, when we give our statement, it is that of hereditary chiefs, and in the memory of white nations.

“My grandfather emigrated from the west of the Cape Colony. Our people occupied the present Griquatown—then known as Klaarwater—as also the junction of the Vaal and Orange rivers.* The Barolong (Kafir) Chief Tau, then in occupation of the place called Tauns† on the Harts River, visited the chief, my grandfather, at

* See diagram A (end of chapter).

† Ditto.

Klaar-water. The Barolongs at this time occupied Tauns and surrounding country. The Chief Tau then departed, having, as we thought, visited our chief and people in a friendly way. After a lapse of time, the Chief Tau again visited us, and was attended by a large number of his people. The chief, my grandfather, believing he had come in friendship, made haste to meet him, and presented sundry articles of food to him and his people, according to our native customs.

"The Chief Tau and his people, noticing a convenient opportunity, and having concealed under their skin cloaks (*karosses*) *assegai*s broken short, suddenly displayed their treachery, and murdered the chief, my grandfather, with a large number of our people.

"After the loss of our chief, we recognized the father of Jan Taaibosch, my grand-uncle, as chief, and under him we crossed the Harts River in pursuit of Tau and his people, who had fled back to their country. We fought the treacherous chief and his Barolongs, defeated, and drove them away. We followed the chief to his great place, Tauns, and fought four battles with him and the Batlaping tribes of Kafirs (who were at this time the slaves of the Barolongs)—the said Batlaping people being a mixture of Barolong, Bushmen, &c.; hence claim no distinct nationality.

"We forced the Barolongs to leave the country, and take refuge at Setlagole.* The Barolong country then reached to Setabing Makwasi and the Molopo River. The Chief Tau died of his wounds. The Barolongs then appointed one Mokalaka; but this chief fled, and then one Massua was made chief, and with him we made peace, and defined our boundaries, viz. :—

"From the Saltpan known as Kweichona, and the Saltpan known as Karre, extending to Magakabane, from thence to Malachue, thence to Jaresafontein, thence to Koning, thence to Langeberg (Mts.), thence with a stright line to the Orange River, including Blink-Klip and Klaar-water (Griquatown), thence with the Orange River past Bloemhof to the Blesbok Spruit, and thence to the Saltpan.*

* Nearly 100 miles to the north.

† A reference to diagram A (at the end of the chapter) will show that not only do the boundaries thus defined include all the ground claimed and disputed by the Griquas under Waterboer, but also nearly the whole of the territory occupied by them north of the Vaal River..

"We were never deprived of these lands by war, neither have our chiefs ceded any portions of our lands to other people."

"This transpired during the rule of Jan Taaibosch. About this time my father, Rijt Taaibosch, was born at *Griquatown*, then called *Klaar-water*.

"The first Griquas arrived about 1811, long subsequent to our date of conquest. And whilst our people occupied (the country) the Griquas came under Cornelius Kok, and settled at *Klaar-water* (*Griquatown*). The first missionary then came amongst the Korana people. I, the present Chief Massau Rijt Taaibosch, was born at the old *Platberg* (and I am now upwards of one hundred years of age). About this time *Goliad Zysterbeck*, also a cousin of Jan Taaibosch, had a tribal quarrel with him, and defeated him; after which Jan Taaibosch left the country, leaving my father, Rijt Taaibosch as chief. After my father's death I became chief, and have occupied up to the present time.

*"We allowed the Barolong and Batlaping tribes (of Kafirs) to occupy portions of our land upon sufferance. The old Chief Barend Barendse (Griqua) obtained our permission to reside at Boutchap.** The first Bloem was a Dutchman, and married a Korana wife. His children were allowed to be petty chiefs of the Koranas known as the Springbok tribe. After fighting and defeating the Barolong Chief Tau, our people occupied principally the conquered territory. My father, Rijt Taaibosch, occupied Patuni* (or Nukuni), the residence now of the Paramount Chief Gasibone, of the Batlapings. My uncle Khamakose died at Patuni; the petty chief Bloem is buried at Tauns. The graves of our people are abundant at Tauns, Griquatown, Campbell, and other principal places, proving the length of our occupation and possession of the land. We have lived in peace with other native tribes, as also the emigrant *boers*. We now occupy our territory of Mamusa,* and rely upon the good faith of civilized Governments that we shall not be deprived of our just territorial rights, because adventurers like the mixed people of Waterboer may desire to appropriate our lands and exclude us, who always were and are a distinct people."

"PROTEST OF THE CHIEF MASSAU RIJT TAAIBOSCH AND RAAD (OR COUNCILLORS).

"We, the undersigned Chief Massau and Councillors of the

* See diagram A (end of chapter).

Korana people, do hereby solemnly protest against the aggressive claim put forward by the Chief Nicolas Waterboer upon our lands and territories lying between the Vaal and Harts rivers.

"Because these lands and a large extent of territory now occupied by the Chief Waterboer has belonged to our tribe for upwards of one hundred years, and we and our tribe have constantly, under successive chieftains, retained undisputed possession; and we inherit our claims by right of conquest from the Barolong Chief Tau.

"And we never have ceded these our claims, nor any portion thereof, to any native chief; neither have we been deprived of any portion by war with any other people.

"We further declare that the Barolong or Batlaping chiefs residing within our said territories, between the Vaal and Harts Rivers have no claim to the land, and have always occupied the same by sufferance.

"We further protest against the claims of the Barolong Chief Montsea, the same being illegal and groundless, upon the principle that any of these days the Dutch Government might as well make a transfer of the Cape Colony to any foreign power, because they once held possession, notwithstanding the English nation claim it by right of conquest. And we herewith protest against any such estrangement of our lands, unless with our sanction, and warn the several Governments and people against any appropriation of our lands upon such false and unfair conditions. In witness of this, our solemn protest, we sign our names:—

"KAPITEIN, MASSAU RIJT TAAIBOSCH, his + mark.

"ANDRIES RIJT TAAIBOSCH, his + mark.

"LUKAS MODDER, his + mark.

"(Signed) "ANDRIES.

"JULIUS.

"DAVID MASSAU.

"Witnesses { W. C. METCALFE.
RICHARD MILES.

"Mamusa, November 20, 1870.

"We hereby declare that the above is true and correct:

"G. DONOVAN,

"Native Representative.

"J. P. TIGHE,

"Late H.M. 11th Regt.

"De Beers, New Rush, June 18, 1872."

The above documents are very important, as so clearly establishing, upon so definite a ground, the best and most ancient claim asserted to sovereign rights over the disputed territory north of the Vaal. It is very conclusively corroborated in the following declaration of the principal Batlaping and Barolong Chiefs in that neighbourhood; the descendants, indeed, of the very people from whom the Koranas obtained the land by right of conquest a century ago.

DECLARATION OF SEVERAL PRINCIPAL BAROLONG AND BATLAPING KAFIR CHIEFS IN REFERENCE TO TERRITORIAL CLAIMS ON EACH SIDE OF THE HARTS RIVER.

"We, the hereunto subscribed Chiefs, do solemnly declare that every Bechuana chief and tribe, as also especially the people and tribes represented by the undersigned, *came into this country and found the several territories since in our occupation, or claimed by us, in possession of Jan, Kapitein (Taaibosch), the Paramount Chief of the Korana people.* And since that chief we acknowledge (1) the right of occupation to Gert Taaibosch, the rightful hereditary and territorial chief, and (2) *at the present time to the Chief Massau Rijt Taaibosch, territorial chief of the country alluded to;* and these things we solemnly declare, and they are in accordance with our tribal laws and ancient observances.

"We further say that the Chief Waterboer is no chief in keeping with our laws, and cannot claim our allegiance by right, and neither did we, nor any of us, ever at any time acknowledge him as such; and we say that none of us ever did by any act of ours authorize or in any way aid or sanction any claim to our several lands on either side of the Harts River; and we hear with sorrow that the Chief Waterboer has entered into an arrangement with the Orange Free State,* by which arrangement that power claims the territory between the Vaal and Harts rivers. We therefore ignore and protest against this estrangement involving our several rights, and the right of Massau Rijt Taaibosch as territorial Chief. And we

* This is an error; the arrangement having been entered into between Waterboer and the British Colonial Government.

say that any chief or people on either side of the Harts River, or between the Vaal and Harts rivers, who shall aid or assist the Chief Waterboer in his sale or transfer of the land alluded to, such chief or people shall forfeit any claim to the land now in his (or their) occupation.

• "In conclusion, we solemnly protest, in the face of Heaven and Earth, against any such arrangements, as being contrary to our usages, our rights to the several lands occupied by us, and the lawful right of the territorial Chief, Massau Rijt Taaibosch, from whom we have, and ever had, our (occupation) right to the territories in question.

"In witness whereof our hands,

"GASIBONE, his + mark.

"*Paramount Chief.*

"BAREND BLOEM, his + mark.

"*Chief.*

"MANKURAN MOLEHABANI, his + mark.

"*Chief.*

"MATLABANI, his + mark.

"*Chief.*

"BOGASIEU, his + mark.

"*Chief.*

"*Done at Tauns, August 10, 1870.*

"*For copy confirm.*

"(Signed)

"J. RAFF, Junr.

"*Secretary, Diggers' Executive Council.*"

"We declare the above to be a true copy,

"J. GERALD, DONOVAN,

"*Late Government Inspector of Pneil Diamond Fields.*

"G. DONOVAN,

"*Native Representative.*

"J. P. TIGHE,

"*Late Lieutenant H.M. 11th Regiment.*"

CHAPTER II.

EARLY HISTORY CONTINUED: SETTLEMENT OF THE
GRIQUAS, AND DUTCH, OR EMIGRANT FARMERS.

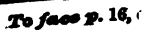
EPISODE OF AFRICANER.—SETTLEMENT OF GRIQUA SQUATTERS.—REV. J. LUDORF'S REPORT.—ATTORNEY-GENERAL PORTER'S REPORT.—GRIQUA BARBARITIES.—MR. PORTER'S OPINION ON RELATIVE RIGHTS OF EARLY SETTLERS.—REPORTS OF MAJOR WARDEN, ASSIST.-COM.-GEN. GREEN, AND SIR HARRY SMITH.—BOER AND GRIQUA RIGHTS TO TERRITORY COEVAL AND EQUAL.—DEPOSITION OF HENDRIK HENDRIKSE.—DEFINITION OF BOUNDARIES OF THE ORIGINAL GRIQUALAND.—A MISSIONARY CAUSES DISSENSION AMONGST THE GRIQUAS.—APPEARANCE OF ANDRIES WATERBOER.—A LINE MADE BETWEEN CAMPBELL AND GRIQUA TOWN.

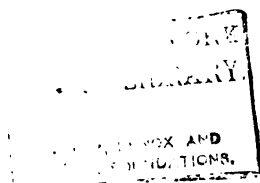
HAVING described the settlement and establishment of the Korana tribes in and about Adamantia, our next object is to deal in a similar manner with the Bastards, or Griquas, and the emigrant farmers of Dutch descent, who next appeared upon the scene.

During the month of August, 1871, a series of articles from the pen of the Rev. J. Ludorf, a well-known missionary and authority upon native history, appeared in the "Diamond News"—a paper published at Pniel, on the Vaal River, until the "dry diggings" broke out.

For the following account of Africaner, one of the Hottentot chiefs, who indirectly brought about the settlement of the Griquas in Adamantia, I am mainly indebted to those articles.

The large tribe of the notorious Jagers or Africaners,





had, from olden times, roamed on their native hills and dales within one hundred miles from Capetown, pastured their own flocks, killed their own game, drank their own streams, and mingled the wild music of their heathen songs with the wilder winds which burst over the rugged Witseberg and Winterhoek mountains—once the strongholds of their clan. As the early Dutch settlers increased, and found it necessary to make room for themselves by adopting as their own the country which lay beyond them, the Hottentots, perfectly incapable of maintaining their ground against these foreign intruders, were compelled to give place by removing to a distance or yielding themselves in passive obedience to the farmers.

When the Aborigines chose to fight for the land they had never utilized, they only fell, shot like dogs in the open country, or smoked like rats in their holes if they retreated to the fastnesses and recesses of the mountains. A Golgotha exists at many a lonely dell, where, unchronicled and unmourned, the long-forgotten natives fought, and some savage band perished to a man.

From that time Jager or Africaner receded, until at last he united with farmer P——, whom he faithfully served. Many provocations and oppressions, however, finally roused the dormant energies of the oft-dejected chieftain. His people had dwindled to a mere handful, their wives and daughters were abused, their children murdered (it is said), while he himself had to subsist upon a scanty pittance.

Events occurring which caused him to suspect further evil, Africaner—who had been trained to the use of firearms—now refused to comply with the com-

mands of the master, who was a kind of justice of the peace in the old Dutch colony of the Cape. With his people he intimated their wish to have some reward for their often galling services, and be allowed to retire to some sequestered district beyond, to live in peace. This was sternly refused, and greater severities threatened.

Still it had not entered their minds to do violence to the farmer. Exasperated that his repeated orders to the natives (or rather, slaves) were no longer obeyed, he summoned them before his door. This was an awful moment, though they were accustomed to scenes of barbarity. Jager, with his brother, moved slowly up a few steps leading to the door. The farmer rushed furiously on the chieftain, and with one blow precipitated him to the bottom of the steps; when Titus, the chief's brother, drew his gun from behind him and fired on P——, who fell dead. They then entered the house. The farmer's wife, having witnessed the fall of her husband, shrieked and implored mercy. They had nothing against her. They took the guns and ammunition, and charged her not to leave the house during the night, or else they could not ensure her safety. Overcome with terror, two children escaped by a back door, and were killed by Bushmen. Mrs. P—— reached the nearest farm in safety.

This tragic event led to, perhaps, the first irruption of Hottentots into Adamantia, and, ultimately, to the settlement of the Griqua people north of the Vaal, upon the very same localities whence they now set up the Waterboer claim to the diamond fields!

After the farmer's death, Africaner at once rallied the remnant of his tribe, directed their steps to the

Orange River, and was soon beyond the reach of his pursuers. Attempts made by the Dutch Colonial Government with the farmers, to punish this daring outrage on the P—— family failed, though rewards were offered and commandos * went out for the purpose.

The farmers then bribed some of the Bastards. This gave rise to a long series of severe and bloody conflicts between Africaner and the Griqua chief Berend Berends, with his associates—Berends impelled by reward and the hope of *loot*, Africaner by motives of self-defence, and a desire to wreak vengeance on his enemies, the farmers as well as their allies.

Africaner seems to have resided principally about the Vaal and Modder Rivers, and, though neither of the chiefs conquered, they harassed each other dreadfully. Wearied by these conflicts, the Griqua chiefs, Cornelius Kok, of Kamesberg, with Berend Berends and his party, migrated clear away into the country then occupied by the Batlaping Kafirs north of the Vaal River.

Molehabangue, paramount chief of this nation, received them in the most friendly manner.

And it is now important to notice the fact that, in the words of the missionary, he “*lent* them three or four fountains to sow corn, and gave them permission to hunt for game. Cornelius Kok, sen., settled at Mothaga, Berend Berends at Tlaka-lo-tlou (Daniel’s Kuil),† Nels Kok, jun., at what subsequently was named Campbell.† *No other agreement was ever entered into with respect to land or boundary between the Bechuana*”

* Commando is the Colonialism for an armed burgher force called into the field by the Government.

† For position of these places, see diagram A, end of Chapter I.

(Kafirs) "*and the Bastard Hottentots*" (Griquas). "The head quarters of the Batlaping" (the name of the particular Kafir tribe, which, as we have seen, then occupied the land by consent of its real owners, the Koranas) "were at Nkoeng, near Lithako, where their principal chief lies buried. *By special permission Nicholas Berends*" (the brother of the chief B. Berends) "*was allowed to settle at Boechap ;** but when, in 1823, the Rev. Mr. Hodgson began to build a dwelling-house, he received a letter from Kuruman, '*to inform him that Boechap was not Griqua but Batlaping ground ; and if his erecting buildings on that spot could ever be interpreted as a claim on behalf of the Griquas, he had better desist at once !*' †

"Mr. Hodgson replied 'that it was indifferent to him who claimed ownership ; all he wished was to be allowed to preach the Gospel. He would certainly be no party in alienating lands from the Bechoana.' With this understanding he quietly built. Cornelius Kok died under the pastoral care of Mr. Hodgson.

"The Rev. John Campbell, on his visiting the Bastard Hottentots, in 1813, took intense interest in their case. He induced them to change their name into Griqua—a mixed people ; gave the name of Griqualand to the place presided over by Dam Kok" (son of Cornelius) ; "made a number of civil laws, which they received ; and had money struck for their use. A good supply of Missionaries, &c., were sent to them, and they have certainly had great advantages for moral

* For position of this place, see diagram A, end of Chapter I.

† Here, again, from an entirely different and independent source, we have evidence corroborating that of the present Batlaping chiefs, who claim as the sub-tenants or feudatories of the Koranas.

and civil improvement, which no other tribe north of the Vaal ever had."

I cannot find any evidence as to the exact date when the Griquas settled down in their new quarters, but quite sufficient to prove that it was certainly within a year or two of 1811.

From the above account we obtain further important evidence that the Griquas were merely squatters upon certain grounds by the generosity and sufferance of the real owners and their feudatories; that, moreover, *until these latter should sell to them, formally present, or lose by war their territorial rights, neither could any such accrue to them.* It does not appear that either one of these conditions ever came to pass. The principal Korana tribe (the Sorcerers) under their hereditary paramount chiefs the Taaiboschs, have never abandoned nor forfeited their sovereign rights as the successors to the aboriginal owners of the soil by right of conquest. For, surely, it can never be maintained that simple absence from molestation by the real owners of a country creates territorial rights for squatters so distinctly upon sufferance?

By and by we shall have to consider whether or no the long abandonment of part of their territory to the squatters has caused the right of the Koranas to lapse, now that they seem to give a tacit consent to the title of the Griquas.

To the chief Berends we may almost say adieu already, but with the family of the Koks, who, from the first, seem to have been the hereditary chiefs of the greater part of the Griquas, we have much to do.

At the first settlement of these people in their new country they established two principal *kraals* or villages

Upon the Rev. J. Campbell's visit in 1813, that to the west, under one Adam Kok, was named Griquatown, and that to the east, under Cornelius Kok (his brother), became known henceforth as Campbell. With the former place we shall only be indirectly interested, but with the latter this work is specially concerned, its adjacent grounds—known as the Campbell lands—comprising, indeed, the whole of the disputed territory in Adamantia, north of the Vaal, claimed by the Orange Free State.

Some time elapsed ere any definite attention was paid to the territory on the south bank of the Vaal—in fact, nor trace nor record of any permanent *kraal* or native establishment exists. This applies to the whole of the disputed lands on that side of the river. And yet this spot, which seems to have been so carefully avoided by the natives, has just been discovered to contain the richest diamond mines in the world! For ages the wandering savage has passed on over incalculable wealth, actually trodden by his feet; the glittering gems lying at all depths, commencing from the very surface.

From the reports of the Rev. J. Ludorf, already referred to, we obtain another important date.

"In 1814, the Rev. Mr. Anderson received an order from the Colonial Government to send down to the Cape twenty Griquas for the Cape regiment. . . . Was it possible that a people just emerging from barbarism, and scarcely able to defend themselves, would send twenty of their best men to serve at the Cape? The result of non-compliance with this order was a threat from Government, and the initiation of a restrictive system, by which the Missionaries were prevented from crossing the northern boundary" (of the Cape Colony). "From this demand dates the Griqua rebellion. . . . The rebels—or Bergenaars, as they style themselves—were exercising dreadful

barbarities, and reduced many Bechoana tribes to extreme poverty ; there is a blood account yet to settle with the Griquas."

It was this and other divisions amongst the Griquas which led to a part of them settling south of the Vaal, at Philippolis,* a short distance north of the Orange River.

In order to avoid confusion between the disputed territory north, and that south of the Vaal River, I shall in future describe the former by its common name, the Campbell-lands, and speak of the latter as *South Adamantia*. (See diagram A, at end of chapter I.)

Before passing on from the early history of the Griquas, I cannot do better than describe their origin in the words of Mr. W. Porter, the late Attorney-General of the Cape Colony.†

"There were also there the Bastards, sprung originally from the intercourse of Dutch settlers with coloured women, a mixed race who emigrated from this colony early in the present century. . . . Forty years ago, or thereabouts, a man of negro blood who had been a slave, but who had saved, by industry and thrift, money enough to buy his freedom, collected about him a number of Bastards and other people of colour, who looked up to him as their head. This was Adam Kok, the great-grandfather of the present Adam Kok. ‡ Finding that his people had increased and were increasing, old Adam Kok quitted the colony, and journeyed into the Bushman country, north of the Great River (Orange), where, after some wanderings—and, if report lie not, no small destruction of the aborigines—he settled in the territory" (of the Orange River). "Then he was joined by Hottentots and free blacks from the colony, and by refugees from various native tribes, forming a community of a singularly mixed description."

The cruelties referred to by Attorney-General Por-

* So named after the Rev. Dr. Philips, of the London Missionary Society.

† See p. 7, Blue Book, "Orange River Correspondence, 1851—5."

‡ Still (1872) living as Chief of the Griquas of No Man's Land.

ter and the Rev. J. Ludorf, as having been perpetrated upon the unfortunate aborigines by the Griquas, were not imaginary, as will be seen from the following statements and depositions taken from the "Friend of the Free State," September 9th, 1864, the names by which they are attested being too well-known in South Africa to require any comment of mine.

A FEW AUTHENTIC RECORDS ON THE EARLY
HISTORY OF GRIQUALAND.

"Winburg, 29th August, 1864.

"To THE EDITOR—SIR,—I beg the insertion in English and Dutch of the accompanying extracts.

"The Free State is really greatly indebted to the Honorable R. Godlonton for the services he has rendered to it.

"In the course of a few days, I hope to forward to you further important evidence relative to our right to this country, especially as to the extent of country purchased by the boers.

"Yours truly,

"J. M. HOWELL."

EXTRACTS FROM THE *Grahamstown Journal*.

"January 26th, 1843.

"Last Saturday Mr. J. Howell, at the head of a deputation of about thirty farmers, the oldest, most respectable, and wealthy in the Hantam, was favoured with an interview by the Lieut.-Governor. His Honour received them very courteously, requesting to know on whose behalf they appeared, and who they represented. The reply was, they came on behalf of the public and emigrants, many of whom, though in arms, had not taken them up against Her Majesty, but merely in self-protection against a meditated attack upon them by the Basutos. . . . The deputation next adverted to the claims of the Bastards to be considered an independent people, and to which they had no better title than themselves, many of them having been born in the colony, and all of them springing

from a race which had emigrated from it. His Honour replied that the Chief Kok had land of his own! and that he was by Act of Parliament recognized as an independent chief, and lord of the soil he now occupies. The deputation maintained that the principal part of the country which the boers occupy, by right appertains to the boers, they having purchased it from the lawful proprietors, under the sanction of Government authority. A large tract of country was purchased by the field-cornet Coetze, and Piet van der Walt, from Danster and Mandor, two Bushmen chiefs, for about 8,000 sheep and 500 head of cattle. That soon after this a small party of Hottentots emigrated from the colony, and took up their abode at Philippolis, from whence they gradually encroached on the lands so purchased, practising the most unheard of cruelties upon the neighbouring Bushmen, and who are now nearly extinct in consequence of the atrocities committed on them by the Bastards. Out of two or three thousand that formerly occupied this country there are but five kraals left, and these are almost reduced to a wild state. (See 'Philips' Researches.') His Honour remarked that if this were proved to him, he would take care that the Bastards should compensate those whose lands they had intruded upon. His Honour enquired for a chart of the country in question; but to this it was replied that there were no surveyors among the Bushmen."

EXTRACT FROM THE *Grahamstown Journal* OF FEB. 16, 1843.

"No. 1. We, the undersigned, hereby certify, and are ready to verify on oath, that the statement made by a deputation from New Hantam to his Honour the Lieut.-Governor at Colesberg, that a tract of land which the Bastards now occupy, that is to say, a tract of land beyond the present station of Philippolis, extending from Knaapzaak river to the Drie Baat river, belongs to the boers, having been purchased by the field-cornet Coetze, and Pieter van der Walt, from Danster and another Bushman chief for a considerable number of sheep and cattle. *That soon after this a small party of emigrants emigrated from the colony, and took up their abode at Philippolis, from whence they gradually encroached upon the lands so purchased, practising the most unheard-of cruelties on the neighbouring Bushmen, who are nearly extinct in consequence of the atrocities committed upon*

them by the Bastards, is, from our personal knowledge of the circumstances, true and correct.

" (Signed)	JOHANNES COETZE, Field-cornet,
"	PETRUS VAN DER WALT,
"	JOHN VAN DER MERWE,
"	JOHN VENTNER,

"Burghers, now residing in the district of Colesberg. A true copy from the original document.

" (Signed) JAMES HOWELL."

"No. 2.—I, Piet Krankuil, Bushman captain, lately of the now-called Griqua country, hereby certify, and am ready to verify on oath, that the greater part of the country now occupied by the Bastards was, previous to the encroachments of these people, inhabited from time immemorial by our nation, and that part of the country was sold (not hired) by our senior captain, Kogleman, by our consent, to Johannes Coetze, field-cornet, and others not now known to me, for a considerable number of sheep and cattle; this was long ago. The reason of my now being in the colony, and working for my food, is because the Bastards took away all our cattle, and murdered our people. I myself have been several times attacked, and my people have been attacked and murdered. The Bastards perpetrated the most horrid cruelties on our nation. After they (the Bastards) had overpowered a Bushman kraal, they would make a large fire and throw into it all the children and the lambs and kids they could not carry away with them; and, if they could by any chance lay hands on a grown-up Bushman, they would cut his throat. I have known solitary instances where Bushmen have been shot by boers, but only on occasions of the Bushmen stealing cattle and resisting the re-taking. Previous to the arrival of the Bastards in our land there were more Bushmen residing in it than there are now Bastards; there are now only two kraals left of Bushmen, containing an inconsiderable number of inhabitants.

" (Signed) PIET KRANKUIL, his + mark.

"Done in our presence (Signed)	JAMES HOWELL,
"	CHRISTOFFEL ROTHMAN,
"	JOHANNES COETZE.

"A true interpretation of a statement made at Colesberg by Piet Krankuil, a Bushman chief, the 4th day of February, 1843."

"No. 3.—I, Hendrik Coetze, hereby certify, and am ready to verify on oath, and by other evidence, that, shortly after the establishment of the missionary institution at Philippolis, while on a hunting expedition at the Drie Baat, beyond the boundary, I met Hendrik Hendriks and a number of Bastards; they had with them 1,000 head of cattle, a large quantity of sheep, and about 100 Kaffir prisoners—men, women, and children. From Drie Baat we proceeded to Toomfontein, where I met another troop of Bastards, having with them also a large number of cattle, and also about 100 prisoners. These Kaffirs had a great number of assegais with them, which clearly prove that many of their number had been killed, the survivors being obliged to carry the arms of the deceased.

"(Signed) H. COETZE.

"A true translation. (Signed) JAMES HOWELL."

"No. 4.—I hereby certify, and am ready to verify on oath, that, in the month of February, 1842, a number of Bastards belonging to Philippolis passed my place beyond the boundary, having with them a number of cattle and sheep. Barend Pienaar, one of the Bastards, came to me and informed me that they had taken the cattle from Jan Kylo's brother, and that they had cleared the country. The Bastards had also with them thirty-three stand of arms, which they had taken from the Kaffirs.

"(Signed) 'TJARD VAN DER WALT, JUN.

"A true translation from the original document.

"(Signed) JAMES HOWELL."

"No. 5.—Some few years ago, while travelling in the Bastard country, I met with a heap of human bones. On enquiring of one Abraham Jager, a Bastard, the occasion of their being there, this man informed me that he and other Bastards had there caught thirty Bushmen and cut their throats.

"A true translation from the original document.

"(Signed) JAMES HOWELL.

"[The name of the person signing this document is given to us, but our correspondent requests, for 'weighty reasons,' that it may at present be omitted.]—ED.]

"No. 6.—I, the undersigned, hereby certify, and am ready to verify on oath, that, about the year 1826, while on the banks of the Modder River, I fell in with a number of Kaffirs; I then sent to them a Kaffir I had brought from the colony to speak to them, and bring some of them up to our waggons. They came, and informed me they were flying from the Griquas, who had murdered many of their people, and had taken away all their cattle. They were then living on roots and grass, and they pointed out a large stone kraal which appeared to have contained recently a large number of cattle.

"(Signed) PETRUS JOHANNES SMIT.

"A true translation. (Signed) JAMES HOWELL.

"The foregoing are correctly copied from the *Grahamstown Journal* of the dates given.

"R. GODLONTON."

During a full decade war and devastation prevailed throughout the country intersected by the Vaal. The Griquas, under the Koks, Barends, Pienaar, Carolus Batjee, Jan Bloem, and other petty chiefs; the Hottentots, Koranas, and Bushmen, under their leaders Africaner, Golan, Gert Taaibosch, David Dantzer, Mandor, Scheel Cobus (Kousopp), and others; killed and plundered each other, and many branches of the Bechoana Kafir nation, pretty indiscriminately.

About the year 1820, however, a new power came upon the scene; when the wars and ravages began to decrease.

As it is my desire that every statement of fact I make, and every political event I assert, may be fully proved and corroborated by indisputable documentary and authoritative evidence, I cannot do better than give Attorney-General Porter's description of the arrival of the power referred to.

Two powers claim Adamantia—the Griquas, under Waterboer, and the Government of the Orange Free State—so that a very important subject is to first of all establish the original title, territorial right, or assumption of dominion upon the part of either claimant.

Upon this very subject is it that the highest law officer of the Cape Colony, in 1849, was furnishing an official report to Earl Grey, and wrote :— *

“ About the year 1825, or perhaps earlier, colonial cattle-farmers, suffering from the droughts so common in the northern districts of the colony, and tempted by the stronger springs and better herbage to be found beyond the Orange River, began to drive their flocks to the other side in search of temporary pasturage. Little or no opposition to these movements was made by any parties claiming to be the owners of the soil. *The regions to which the colonists first resorted † for grass and water could scarcely be said to have any actual possessors.* The Bosjesmans, the true aborigines of the country, had either been exterminated or reduced to slavery, or hunted into holes and caverns in the mountains by conquerors partly Hottentot and partly Kafir. *The whole territory was newly settled and thinly peopled.* Under this name (Griqua) political independence was claimed, or at least exercised, and Adam Kok was declared to be supreme chief, or captain. Disputes, however, soon arose which split the population into two parts, and finally resulted in a Griqua Government under Waterboer, at Griquatown, ‡ and a Griqua Government under old Adam Kok, at what is now called Philippolis.

“ *Whether or not the Griquas were already in the country which they now occupy when the boers first began to cross the Orange River, is a point which I heard fiercely disputed in 1845, when I was in Griqualand in attendance upon Sir Peregrine Maitland. That this point*

* See p. 7, “ Blue Book, “ Orange River Correspondence, 1851—4.”

† This region comprised South Adamantia and generally the whole territory lying between the angle of confluence of the Vaal and Orange Rivers.

‡ See diagram A, end of Chapter I.

should have been ever mooted showed the recent origin of Griqua right, and it is, therefore, matter of no surprise that the boer or his herdsman was so unresistingly allowed to lead his cattle to whatever spring or spot best suited him."

It is here necessary to explain that the Griquas with whom the *boers*, or Dutch emigrant farmers, came into contact, were those under Adam Kok, who (as previously mentioned, and further to be referred to), after some dispute and difficulty with the missionary at Griquatown, in 1816, left that place, and, with his followers, settled at a spot on the Orange River known as Slijpsteen (? Backhouse), which he eventually abandoned, and removed to Philippolis about the year 1820. Philippolis being many miles south of South Adamantia, it is quite evident that Attorney-General Porter was correct in his view that the Griquas had no better claim than the *boers* to waste lands visited by both parties for the same purpose—temporary pasturage. Indeed, according to many, the *boers* were decidedly the first to enter and occupy South Adamantia, as appears from the italicised passage, stating a right by purchase, in the depositions already quoted in this chapter. I find, moreover, in a despatch from Major Warden, British resident at Bloemfontein, dated August 3, 1850, to H. E., Governor and High Commissioner, Sir Harry Smith, the following statement which confirms that above-mentioned :*—

"* The Van Wijk's country (between the Vaal and Modder Rivers) was purchased by the boers many years ago from the Bushman chief, David Dantzer, and now comes another claimant for the same, stating that he was ever considered a greater chief than Dantzer, and that his father had all the Bushmen of that tract

* See p. 46, Annexure 20, Blue Book, "Minutes of Meeting at Nooitgedacht," O.F.S.

of country under him for years. I told Kousopp that his Excellency's proclamation had long ago settled all such matters, *and that the land belonged to the boer occupants.*"

Still further proof as to the purchase of land by the *boers* was furnished by Assist.-Com.-Gen. Green, then British resident at Bloemfontein, the principal town in the new colony, in June, 1852, in a very able report, entitled, "Notes on the Orange River Sovereignty." This interesting document was supplied to Lieut.-Gen. Sir George Cathcart, High Commissioner and Governor of the Cape at that time. From it we cull the following extract :*—

"In the years 1835—6 the well-known emigration of the *boers* from the Colony took place. . . .

"A second party, under the guidance of Potgieter, purchased from the Chief Mataban that portion of the sovereignty lying between the Vet and Vaal Rivers; and a third, under Fourie, obtained in the same manner, from the Korana Chief, David Dantzer, an extensive tract of country to the westward of Bloemfontein, between the Modder and Vaal."†

Before proceeding with Mr. Porter's narrative of the *boer* settlement north of the Orange, as also bearing directly upon the disputed point of first occupation, I quote from a "Despatch from Governor Sir H. G. Smith to Earl Grey, King William's Town, Kafraria, January 20, 1851," this important paragraph :

"† 4. I must here assure your Lordship that Captain Adam Kok and his followers *are mere squatters, and have no more hereditary right to the country in question than the boers themselves*, who have been in the habit, for many years, for the sake of pasturage, of driving their herds and flocks over the Orange River."

This distinct opinion is very valuable, as being that

* See p. 50, Blue Book (2) "Orange River Correspondence," 1851—4.

† This very tract of country is now claimed by the Griqua Waterboer.

‡ See p. 82, Blue Book, "Orange River Correspondence," 1851-4.

of perhaps the wisest and most popular of all the Cape Colony Governors.

Attorney-General Porter's narrative continues from where we left off :—

“ At first, this sort of occupation was temporary, and ceased with the drought which led to it. But imperceptibly it became permanent, sometimes, perhaps, taken by strong hand, but more frequently made the subject of purchase from some Griqua, who, making little or no use of his land, was ready to sell it upon very easy terms. But it was not until many years had elapsed that the emigration became a matter of political importance. True, indeed, even its beginnings were discountenanced by the Colonial Government. Our frontier authorities were enjoined as much as possible to prevent it ;* but, as in the case of almost every successive movement beyond the boundary for the time being, from the period when the Cape Colony was contained within the Cape Town military lines, till now that it has reached the Orange River and the Keiskamma, all the efforts of the Colonial Government to stay the progress of the people proved unavailing. Down, however, to what may be called the Great Emigration, which set in in 1836, the boers beyond the boundary gave little trouble, and excited, except in a few far-seeing men, little apprehension. But matters became truly serious when an emigration began which was in its character essentially political and anti-English,† springing in no small degree out of old national feelings, embittered by what, conducted as it was, was considered and called robbery,—the slave emancipation.

* Why this opposition to the Dutch colonization? Certainly not from the native-protecting pretended philanthropic motives given by the British Government; because British policy and British aggrandizement, at the expense of natives in every quarter of the globe, prove such reason both absurd and hypocritical. No! the real motive was doubtless selfishness and jealousy, the dislike to see other people get lands for nothing as we had done, the hatred to see Dutch colonists thrive as we had, and the dread to see the Colony unpeopled.

† One would have naturally thought that matters would have been much more serious had these Dutch haters of British rule remained in the colony. Had it not been for the fact that the Colonial and Home Governments were jealous of them moving off, settling, and succeeding elsewhere, they would certainly have rejoiced at the voluntary exit of so many disaffected subjects.

"The emigrants, through many dangers and much loss, reached Natal, and, after destroying Dingaan, the most powerful and ferocious of the native chiefs who had tried to resist them, first by treachery and next by force, they proclaimed a Batavian republic. The assertion at Natal of British sovereignty by force of arms having become necessary, one effect of this measure was to send over the Drakensberg mountains a number of emigrants who carried with them, into what is now the Orange River Sovereignty, a rooted antipathy to British rule,—whilst another effect was, that the tide of emigration, instead of flowing into Natal, was thenceforth stayed at the Drakensberg, to spread and spend itself over the whole land between those mountains and the Great River. Then began a state of things too well known to need description. The *boers*, with their guns in their hands, disputed native titles in all directions, and as their antagonists held in general only *assegais*, the *boers* got the better in the argument. True it was that there were native titles which covered every inch of the entire country; nay, that in many cases the same tract of land was loudly claimed by several chiefs at once. The disputes of Maroko and Moshesh, and of Sikonyella and Moshesh, not to speak of others, are well known to all who take an interest in such controversies. But the *boers* regarded those native claims to immense possessions as the common foible of all rude tribes, and practically evinced their determination to judge for themselves what land was so occupied as to be really and legitimately the property of tribes *who had come there upon the same sort of errand as themselves so recently before their own arrival*. In this manner, and not without much mutual recrimination, it came to pass that emigrants from the Colony settled themselves down in many parts* of what is now the new sovereignty. They assumed absolute independence. They established something which they called a government, mimicked from the old Colony. They had their landrosts, their field-cornets, their volksraads."

Attorney-General Porter's narration of events, together with the statements of Major Warden and Sir Harry Smith, clearly establish some very important facts, *viz.* :—

* South Adamantia amongst other parts; although there, at least, there were not any native titles to dispute, and only here and there a rival Griqua claim of no more ancient existence than their own.

1. That the emigrant farmers found no one except Bushmen with whom to dispute territorial rights; that but few of them existed; and that they sold their rights to the *boers*.

2. That the title to land by squatter's rights, or by the occupation of what may legitimately be considered "waste lands," applies equally to *boers* and Griquas, whose arrival and settlement between the Orange and Vaal Rivers was so evidently contemporaneous.

3. That in reality the best right any of the Griquas possessed to the lands they claimed was when a *boer* either hired a farm or bought the lease from them.

From the year 1820 until 1845 the numbers and possessions of the emigrant farmers continued steadily to increase: they governed themselves, and gradually became a power in South Africa.

Having explained the arrival and settlement of both the *boers* and Griquas in Adamantia and the adjacent country, before describing the events which, in 1845, led to the forcible resumption of British sovereignty over the *boers*, it is necessary that we revert to the Griquas, and see what they were doing in the meanwhile.

*From the sworn deposition of an old Griqua official, one of the original emigrants and squatters who settled in the Campbell-lands, we are enabled to fill in the principal historical and political events until the period when British intervention made both *boers* and Griquas, for a time, submit to the Queen's sovereignty again, and resume the allegiance their emigration had placed in abeyance.

* This deposition was taken before Mr. J. G. Siebert, Landrost of Fauresmith, at that place, on the 5th of February, 1863; and was obtained as evidence and information for the use of a land commission appointed about that time, by the Government of the Orange Free State, to inquire into and investigate certain claims of that State to the Campbell lands. *Vide* p. 10, Annexures, Blue Book "Minutes of Meeting at Nooitgedacht," O.F.S.

"I, Hendrik Hendrikse, formerly Griqua Government Secretary, declare faithfully and solemnly the following circumstances:—

"I was present in the year 1811 with the first emigration of the Griqua nation from the Kamiesbergen, in the Cape Colony, to over the Orange River, to a place later called Griqua Town. We were sent by our lawful Captain, Adam Kok. . . .

"The before mentioned Adam Kok made over his Government to his son, Cornelius Kok. . . .

"The latter did not come with us, but we went under the command of his two sons, Adam—commonly called Dam—and Cornelius Kok, the last Chief of Campbell.

"About the year 1815 old Cornelius himself came there, and on his death—which took place at Koukonops Drift, on the Vaal River, he nominated his son, Dam Kok, as Chief of the whole Griqua nation, with all its grounds, and his son, Cornelius, was made Chief of the family branch of 'de Koks.' This was done in accordance with the Griqua laws and customs. It was then also recognised by the British Government; for the first mentioned received from them a staff of office, and the last-mentioned a family staff—being a cane with a golden knob.

"The grounds of which they then took possession, by command of their grandfather as well as their father, were waste and uninhabited. The ground then extended:—

*"On the west, to the Orange River; on the south, to the Vaal River; on the east, to the Harts River; and on the north, to a place called Keis, on the Orange River, with the Kafir line round to Boutchap, on the Harts River; but this line was afterwards half way between Campbell and Boutchap, because the last mentioned place was given up to Barend Barends, but now it is under Campbell."

The distinct definition of these boundaries has become a very important matter, since the present Griqua chief put forth a most impudent claim, utterly unwarrantable, to lands far beyond these lines so clearly stated by Hendrik Hendrikse, in whose corroboration very ample evidence exists, and whose definition I have decided to maintain as that of the very

* See diagram A (end of chap. I).

land rightly pertaining to the Griquas at the present day, with but one addition (known as Albania), and but one exception (the Campbell-lands).

、 To resume our extracts from Hendrikse's deposition :

"Adam, or Dam Kok, was appointed to rule at Griqua Town, and Cornelius Kok at Campbell.

"About the year 1816, differences arose between Dam Kok, the Chief of Griqua Town, and the missionary residing there. The difference arose about punishing criminals guilty of capital crimes, whom Dam Kok wished to have punished, and against which the missionary objected."

It seems that the rev. gentleman cherished some vague Utopian hope to found another Eden (a half to three-quarter caste one this time) in the wilderness. Dam Kok had a very laudable and much provoked desire to establish an African edition of the worthy Calcraft as a permanent institution. To prevent this abomination worked the missionary tooth and nail; succeeding, deponent testifyeth, without extreme toil, in converting many of the heterogeneous gathering of varied race and colour to his views. So Dam Kok—the accursed—had to remove him from the Arcadian vicinity, where, in future, such of the disorderly, rebellious "contents" as became homicides had a glorious time of it—no other punishments, no such atrocities and abominations as jails, treadmills, hard labour, nor solitary confinement being known amongst this primitive people.

That the rev. gentleman should so easily have caused so serious a schism in the camp of his entertainer cannot be a matter of surprise to people who chance to have had the pleasure of a personal acquaintance with those euphoniously-named beings, the Griquas. Such enlightened travellers will experience

but faint difficulty in appreciating the fact that, amongst old Dam's mixed breeds—comprehending every colour from deepest black to palest, most sickly-looking yellow—such accidents as killing a man on purpose, when the beloved beverage known so poetically, so etherially, as “Cape Smoke” was to be obtained, were by no means very unlikely; *ergo*, it follows, as a simple logical conclusion, that these gentry would look with peculiar favour upon the reverend proposition and any prominent member of their tribe who might second it and oppose the old chief. Such an individual appeared in the person of one Andries Waterboer, father of the present Griqua chief who claims the diamond fields.

It was at this time that old Dam Kok, in the words of Hendrikse:—

“Left the Government of Griqua Town to his uncle, Adam Kok, commonly called ‘Kort Adam,’ and went up a little higher on the Orange River to a place now called ‘Slijpsteen.’ The provisional captain, ‘Kort Adam,’ being prevented, through much work (he was a blacksmith) doing everything as Captain, again nominated a Bushman Hottentot—who had followed Adam Kok as ‘Achterrijder,’ (a sort of groom), and then acted as messenger (or constable) at the place—to manage the local affairs of Griqua Town. This was Waterboer. . . .

“As the missionaries sided with Waterboer and against Dam Kok . . . they contrived to effect that the British Government recognized Waterboer as Chief, or at least made a treaty with him.* . . .

“Dam Kok then resided at Philippolis, where he was also recognized as Chief by the British Government.

“Waterboer then went out with commando to take cattle” (to steal them is meant), “even as far as Sleutelspoort, near to Fauresmith, to Jan Bloem, where he lifted in one night more than

* Treaty between Sir B. D’Urban and Waterboer, 1834.

400 head of cattle, whilst the men were at Philippolis; and then also disputed the right of possession of Campbell with Cornelius Kok."

The missionary's *protégé* and his followers do not seem to have been a very comfortable set to have as near neighbours—in fact, to be within raiding distance of. The reverend gentleman seems to have inculcated an entirely new version of the whole ten commandments. Murder being, by the new code, venial; robbery, no doubt, was deemed rather virtuous than otherwise.

Mr. Hendrikse continues:—

"Dam Kok, as being chief of the whole Griqua nation, on hearing all this, went with his father, and compelled them to make peace, in the presence of Dr. Smith and many others, in the following manner: He fixed a boundary line between Griqua Town and Campbell, resigned his government of Griqua Town to Waterboer (for the missionaries had already spoilt matters), and Cornelius Kok had the government of Campbell with its grounds.

"The boundary line fixed between Griqua Town and Campbell was as follows:—

* "From the drift through Vaal River, called Koukonap, on the north, to Withuis; from there to a great tree half-way between Campbell and Griqua Town; from there to Kogelbeen; from there half way to Daniel's Kuil; and from there half way to Boutchap (all the half ways are reckoned from Campbell); and from Harts River, and down along Harts River till in Vaal River; and down along Vaal River to the first mentioned drift, Koukonap."

This accurate definition of the exact boundaries of the Campbell lands, as well as of the original line made between Campbell and Griqua Town, about the year 1820, is extremely valuable, and requires to be carefully remembered; proving, as it does, how entirely

* *Vide* diagram A (end of chap. I).

the two chiefs were independent of each other, and how distinctly their lands were marked off and separated by their superiors—facts now shirked, evaded, and denied by Waterboer, the Chief of Griqua Town, in order to put forth his fraudulent claim to the *diamon-diferous* Campbell lands and South Adamantia.

“After the ground on the north of the Vaal River had been made right, Dam Kok exchanged (purchased or obtained by exchange) the ground on the south of Vaal River from the Bushmen, and they then all stood under the government of Philippolis. Dam Kok then died.

“Cornelius Kok then sold in an illegal manner lands on this, or the south side, of Vaal River; but of this hereafter.

“He also assisted Abram Kok to fight against his brother, Adam Kok (the legitimate successor to the paramount chieftainship), in 1837. Adam Kok drove them all away to the so-called David’s Graf. The war was waged about the chieftainship between Abram and Adam Kok; and Adam Kok was then recognized as chief in his father’s (Dam Kok’s) place.”

CHAPTER III.

BRITISH INTERVENTION NORTH OF THE ORANGE RIVER ;
CREATION OF AN ORANGE RIVER SOVEREIGNTY ; ITS
ABANDONMENT ; ORIGIN OF THE ORANGE FREE STATE.

HOSTILITIES BETWEEN BOERS AND GRIQUAS : LATTER ASSISTED BY
BRITIS—ESTABLISHMENT OF BRITISH RESIDENT.—ATTORNEY-
GENERAL PORTER'S REPORT THEREON, AND SIR P. MAITLAND'S
TREATY WITH ADAM KOK.—BOUNDARY OF THE LATTER'S TERRI-
TORY.—PROCLAMATION BY SIR H. SMITH OF THE ORANGE RIVER
TERRITORY AS A BRITISH SOVEREIGNTY.—HOSTILITIES ENSUE.—
BRITISH VICTORIOUS ; AND SIR H. SMITH RECTIFIES SIR P.
MAITLAND'S TREATY WITH GRIQUAS.—BY THE NEW TREATY THE
BOERS BECOME PERPETUAL LEASEHOLDERS OF THEIR FARMS IN
GRIQUA LAND.—ABANDONMENT OF SOVEREIGNTY ; AND CONVEN-
TION ESTABLISHING ORANGE FREE STATE.

During some years no event occurred in the Orange River Territory either politically or historically important.

Up to the Vaal River the whole country was fast getting entirely occupied by the Dutch emigrant farmers, whilst many others had already crossed the Vaal and founded the Transvaal, now known as the South African republic.

At length, in the year 1845, a serious trouble came upon the new colony.

In the words of Assist.-Com.-Gen. Green, Adam Kok, the Griqua chief, "began to be alarmed lest the whole of his territory should pass into the hands of the newcomers, which, added to the jealousy of the people themselves at the prosperity of the industrious boers, and a desire to break their long leases (usually held for 40 years), caused them to watch eagerly for a pretext to get rid of their tenants. This was not long wanting. A Morolong, who, though not properly a subject of Adam Kok, yet acknowledged him as chief, having been flogged for theft by a *boer* field-cornet, laid a complaint before him; the Griqua chief sent some men to arrest the *boer*,* which, being resisted, an exchange of shots took place. The *boers* immediately went into *laagers*, and the hostilities commenced, in which the Grikwas were assisted by Her Majesty's troops, and which terminated in the defeat of the *boers* at Swart Koppjes, in 1845; immediately after which Major Sutton was established in the country as British Resident, with a small force to support his authority, which was only to extend to the arbitration of disputes between natives and whites."

I, for one, would never utter a word against the support of natives *when in the right*, but, on the contrary, as I ever have done, would help them to the utmost of my ability; but, exactly on the same principle,

* To those unacquainted with South Africa this affair will not appear in full significance. I therefore supply this note to point out that no white people ever submitted to native jurisdiction in that part of the world; whilst the attempt of Adam Kok, the chief of a few hundred idle, drunken, utterly useless and vagabond mixed breeds, to arrest one of the numerous and thriving members of the new colony, where the law was sufficient and exterritoriality prevailed, was a most impudent aggression.

would oppose them, and support their antagonists, when they were in the wrong.

British armed intervention against the emigrant farmers in the affair under notice was most unnecessary and unjust, the Griquas having no right whatever to attempt the arrest, with guns in their hands, of a *boer* official who had simply done his duty. The act was clearly illegal.

The British Resident's report continues :—

“The system of native protection which influenced the British Government had, in the year 1842, induced them to interfere between the emigrants at Port Natal and the natives.”

(Those natives, be it remembered, who had so treacherously and barbarously massacred the emigrant Retief and a number of his followers.)

“Many of them in consequence recrossed the Drakensberg with feelings considerably embittered towards British rule, hoping, in what now is the sovereignty, to escape it. In this they were subsequently undeceived by the Swart Koppjes affair.”

To continue the narration of events in consecutive order, I must now revert to another “Memorandum,” bearing date Capetown, August 4, 1852, and drawn up, this time, for the information of Governor Lieut.-Gen. Cathcart, by Attorney-General Porter. It is important as defining the nature of the relative position occupied by the boers, the Griquas, and the British Government subsequent to the battle at Zwart Koppjes, and as also explaining the first important treaty entered into between the Griquas and the British, a result of the then Cape Governor's visit to the Orange River territory.

* "When Sir P. Maitland visited what is now the Sovereignty, in 1845, his object was to settle existing and prevent future disputes without asserting British dominion, with its attendant expenses and responsibilities. He found the *boers* there, and found them determined to remain there; and found them, moreover, in the way of gradually gaining the whole country. He therefore proposed to Adam Kok to define his entire territory, and then to divide that entire territory into two parts, one of which was to be for ever reserved for the Griquas, and the other of which parts was to be for ever open to be occupied by the *boers*. The part to be reserved for the Griquas was called the 'inalienable' territory, and the part to be occupied by the *boers* was called the 'alienable' territory. *Boers* were settled in both parts, though in very unequal numbers. Some had professed to purchase what in England we should call the fee simple; some had hired farms for a term of years. . . . Leases which in their inception had been made for forty years or under were to be allowed to work themselves out by effluxion of time, and as leases gradually expired in the 'inalienable' territory the *boers* were to be obliged to quit it altogether; but in the 'alienable' territory the lands were to be capable of being let at all times on lease to *boers* by the instrumentality of the British Resident. A small quit rent was to be paid to the British Resident by all lessees, as well within the 'inalienable' as the 'alienable' territory, one-half of which quit rent was to go to Adam Kok, as the owner of the country, and the other half to be retained by the British Resident towards defraying the charges of the residency."

The above arrangement had but a short life; but from the treaty entered into between Governor Lieut. Gen. Sir Peregrine Maitland and the Chief, Adam Kok, we are enabled to prove the highly-important fact that everywhere outside a certain boundary the right of the *boers* to acquire land was then admitted they did eventually acquire the whole of those "alienable" lands, and within a year or two became, by a

* *Vide* p. 79, Blue Book (No. 2), "Orange River Correspondence, 1851-4."

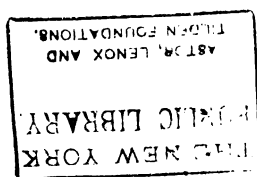
British law, perpetual leaseholders thereof; yet now comes the Griqua Waterboer from the north side of the Vaal, whose name was never so much as mentioned in these treaties, with Griquas concerned in territory south of the Vaal, and audaciously claims nearly the whole of the very "alienable" lands dealt with and settled so long ago!

* By "Article 5" of the treaty, the boundary of the "inalienable" territory of Adam Kok's Griquas is defined as follows. (See accompanying Diagram B.)

"From David's Graf, at the confluence of the Riet and Modder rivers; thence along the Riet River to where Krom Elbow Spruit falls into the said Riet River; thence up Krom Elbow Spruit to where Van Zyl's Spruit falls into it; thence up Van Zyl's Spruit to its source from between the Pram Bergen; thence along a direct line to be drawn from the neck of Pram Bergen, at the source of Van Zyl's Spruit, to Braay Paal, which line, running generally east, holds the summit of a ridge extending from the said neck to within about a mile of Braay Paal; thence from Braay Paal, the boundary between Adam Kok and the land occupied by the chief, Le Pui, to the junction of that boundary with Bosjes Spruit; thence along Bosjes Spruit to where the same falls into the Orange River; thence along the said Orange River as far as *Ramah*; and thence in a direct line to David's Graf aforesaid."

But inasmuch as *all* leaseholds both bought and hired by *boers* from Griquas were declared by the Governor to be terminable in forty years, very great dissatisfaction was created amongst the white settlers; and it is quite evident that extreme injustice would have been done to many of them by the unreserved, absolute, and sweeping nature of the law which treated

* *Vide* p. 129, Blue Book (No. 2), "Orange River Correspondence, 1851-4."



every one of them as a land swindler, compelling them, right or wrong, moreover, to abandon the farms they had cultivated, with homesteads, improvements, and everything, no matter how outright might have been their purchase of the freehold !

From Mr. Green's "Memorandum" we obtain further information that "Andries Pretorius, the acknowledged leader of the emigrant *boers*, made an effort, in the year 1847, towards a reconciliation between them and the government by proceeding to Graham's Town to lay their case before Sir Henry Pottinger, then Governor of the Cape ; but, being considered a resident of Natal, Sir Henry objected to receiving any statement except through the Lieut.-Governor of that settlement, and would not even grant an audience to Pretorius, who returned to his people goaded to a degree at the futility of his long journey, and a treatment which, however proper, was not politic !!!"

This event is too astounding for comment ! Pretorius, who, in fact, was a resident of the independent community beyond the Orange River, who fled from Natal immediately that country became subject to British rule, was considered a resident of the place that had no just claim upon him, where he did not and would not reside !

No wonder that hostilities broke out ere long between *boers* and British again.

Matters came to a crisis when Sir Harry Smith (Sir H. Pottinger's successor) paid a flying visit to the country early in 1848, and proclaimed, on the 3rd of February, the Queen's sovereignty "over the territories north of the Great Orange River, including

the territories of the native chiefs, Moshesh, Adam Kok, &c. (and the *boers* should have been added), so far north as the Vaal River, and east to the Drakensberg or Quatlamba Mountains."

This settled the matter in a very simple way, by taking possession of the whole country, annexing *vi et armis* all lands in dispute and not in dispute, regardless of any and every claim, and to whomsoever belonging!

It was a vast tract of country thus made British by a dash of the dashing Sir Harry Smith's goose quill; forming a huge triangle, with the junction of the Vaal and Orange rivers as its apex, the two rivers as its two sides, and the Drakensberg Mountains (over against Natal) as its base; in length full 300 miles from east to west; in breadth 200; comprising at least 60,000 square miles of ground!

We must now speak of the annexed country (a pretty word, that, for robbed) as the "Orange River Sovereignty."

As Mr. Green ably stated :—

"But, as if the proclamation, as far as already noticed, were not sufficiently an apple of discord thrown into the unhappy sovereignty, there is a special clause in it to embroil the native and white inhabitants; for in the fourth paragraph we read that 'One condition upon which Her Majesty's subjects *hold their lands* is, that every able-bodied man turns out with arms, or as a constable, for the defence of Her Majesty *and her allies*.' As, when two native chiefs are in hostility to each other, the one whose part is espoused by the government is considered an ally and the other an enemy, the effect was simply to bring the *boers* into collision with one or other of the native tribes with whom they had no quarrel, and from whom they had always experienced kindness and respect. The immediate effect of the paragraph referring to the tenure of lands among the *boers* in the sovereignty was to spread consterna-

tion among them. . . . The murmurs of discontent which arose were speedily fanned into a flame of open rebellion,* which displayed itself in the beginning of July, 1848, upon the first attempt made by Major Warden to lay out their farms, as directed in Sir H. Smith's proclamation of March, 1848; when they drove the British Resident and the Magistrates of Winburg and Smithfield (the only officials in the country), with the small detachment of troops, across the Orange River. Sir H. Smith then brought up a force of 500 men, which he headed himself, and encountering the insurgents at Boemplaats on the main road to Bloem Fontein, where they had taken up a strong position, he defeated them, and, pursuing his march, reproclaimed the Queen's sovereignty over the country at Bloem Fontein on the 2nd of September, 1848, under a royal salute."

However, having beaten the emigrant farmers into submission to his views, Sir Harry Smith proved himself to be (putting aside the "Rule Britannia" passion, and instructions from the British Government) both a magnanimous conqueror and a just man, for one of the first things he did was to rectify the unfair provisions of the objectionable "alienable" and "inalienable" land treaty made between Sir Peregrine Maitland and the Griquas. It is as well to quote his own explanation of this transaction.† In a despatch to Earl Grey, bearing date January 20th, 1851, he states:—

"5.—After mature deliberation, and having consulted with Adam Kok, with the *boers*, and with all the native chiefs, I proclaimed Her Majesty's sovereignty, in order to establish a paramount authority in this debateable territory. In this measure, the great principle by which I was guided was that all the inhabitants, white and coloured, should continue in possession of the farms and the terri-

* How could people be said to be in "open rebellion" against a power to which they had not submitted, and which had seized their country by force? Mr. Green, being a British official, could not, we must suppose, term the *boers* patriots.

† *Vide* p. 82, Blue Book, "Orange River Correspondence, 1851—4."

tory occupied by them at the date of my proclamation; but, as serious disputes had constantly arisen with respect to boundaries, I determined, by general acclamation, to establish defined limits and so put an end to these continual and pernicious quarrels. . . . Captain Adam Kok's territory was preserved to him as it then stood, as regards both the 'alienable' and the 'inalienable' portions. I never interfered with the latter in the most remote degree. The Chief himself suggested that, after the expiration of the forty years' leases in his 'inalienable' territory *boers*, the might purchase from his people a future right upon the conditions set forth in my additional treaty transmitted to your lordship. This was Adam Kok's own proposal, and as it met the wishes of the *boers*, who were most desirous to possess their farms in perpetuity, it was agreed to, on the understanding that £300 a year should be paid by Government to the Griqua Chief. . . .

"6. When society consists of the heterogeneous elements of which it is composed beyond the Orange River, and when opposite interests prefer conflicting claims, that course is the best which contributes most to the general good. The great principle which guided me was, as I have already stated, not to disturb, *but clearly to define, the existing occupation*; and my arrangement has consequently improved the condition of all."

No one at all able to judge in the matter can dispute Sir Harry Smith's just reasoning and true conclusions. Although, of course, none of the Dutch emigrant farmers felt satisfied at the foreign yoke again placed upon them, they submitted to the inevitable with good grace, and for several years devoted themselves to the improvement of their country, avoided "kicking against the pricks" in the form of the Sovereignty Government, and generally brought about a high state of prosperity throughout the whole territory settled and occupied by themselves.

During the Orange River Sovereignty the Griqua Waterboer put in a claim to some land (in the year 1850) south of the Vaal River; the Chief of Camp-

bell, Cornelius Kok, made a similar application for the same land; the British Colonial Government, however, ignored both claims. The event will be further noticed when we come to deal with Waterboer's claim to the diamond-fields, and the seizure of them (upon the pretence that it was for him) by the Colonial Government.

The Sovereignty had but a short life of just six years. During that period the policy of interference with the natives, the intervention in their continual internecine quarrels and wars, had turned out badly. With Moshesh, especially, the paramount chief of the numerous and formidable nation of Basuto Kafirs, very indefinite hostilities had been waged; British troops had even been repulsed, if not defeated; and a very dubious sort of advantage and treaty had lately been obtained. These things, no doubt, affected the British Government at home. The policy of following up and forcibly retaining the *boers* as British subjects suddenly ceased, the Orange River Sovereignty was formally abandoned, and the Government of the country made over to the *boers* as a free and independent people!

This act was just as arbitrary and selfish as the annexation *de haute lutte* had been; the will of Her Majesty's Ministers being alone studied or consulted; that of the people to be abandoned—abandoned, too, to the tender mercies of the Basutos, whom the British hostilities had perhaps provoked against the whites, and for a time humbled, but certainly not conquered—never being taken into consideration at all! Under these circumstances a great proportion of the white settlers protested most emphatically against the abandonment; especially many English merchants and

others who had made the country their home upon the strength of its proclamation as a British sovereignty. But nothing availed. A Special Commissioner had arrived, and the Orange River Territory was given up just as hastily as it had been at first so greedily seized upon; the following very distinct and absolute treaty, or rather charter of independence to the country, and release of the people from their allegiance to the British crown, being the result:—

ARTICLES OF CONVENTION

ENTERED INTO BETWEEN

HER MAJESTY'S SPECIAL COMMISSIONER

AND THE

REPRESENTATIVES

OF THE

ORANGE RIVER TERRITORY.

ARTICLES of Convention entered into between Sir GEORGE RUSSELL CLERK, Knight Commander of the Most Honourable Order of the Bath, Her Majesty's Special Commissioner for settling and adjusting the affairs of the Orange River Territory, on the one part; and the undermentioned Representatives delegated by the inhabitants of said Territory:—

For the District of Bloemfontein:

GEORGE FREDERICK LINDE,
GERHARDUS JOHANNES DU TOIT, FIELD-CORNET,
JACOBUS JOHANNES VENTER,
DIRK JOHANNES KRAMFORT.

For the District of Smithfield:

JOSIAS PHILIP HOFFMAN,
HENDRIK JOHANNES WEBER, JUSTICE OF THE PEACE AND
PETRUS ARNOLDUS HUMAN, [FIELD COMMANDANT.
JACOBUS THEODORUS SNYMAN, LATE FIELD COMMANDANT,
PETRUS VAN DER WALT, SEN. (ABSENT ON LEAVE).

For Sannahs Poort :

GERT PETRUS VISSER, JUSTICE OF THE PEACE,
 JACOBUS GROENENDAAL,
 JOHANNES JACOBUS RABIE, FIELD-CORNET,
 ESAIAS RYNIER SNYMAN,
 SARL PETRUS DU TOIT,
 HENDRIK LODEWICUS DU TOIT.

For the District of Winburg :

FREDERICK PETER SCHNEHAGE,
 MATHYS JOHANNES WESSELS,
 CORNELIS JOHANNES FREDRIK DU PLOOL,
 FREDRIK PETRUS SENEKAL, FIELD-CORNET,
 PETRUS LAFRAS MOOLMAN, FIELD-CORNET,
 JOHAN ISAAK JACOBUS FICK, JUSTICE OF THE PEACE.

For the District of Harrismith :

PAUL MICHEL BESTER, JUSTICE OF THE PEACE,
 WILLIAM ADRIAN VAN AARDT, FIELD-CORNET,
 WILLEM JURGENS PRETORIUS,
 JOHANNES JURGEN BORNMAN,
 HENRIK VENTER (ABSENT ON LEAVE),
 ADRIAN HENDRIK STANDER,

on the other part.

“Art. I.—Her Majesty’s Special Commissioner, in entering into a Convention for finally transferring the Government of the Orange River Territory to the Representatives delegated by the inhabitants to receive it, *guarantees, on the part of Her Majesty’s Government, the future independence of that country and its Government*; and that, after the necessary preliminary arrangements for making over the same between Her Majesty’s Special Commissioner and the said Representatives shall have been completed, *the inhabitants of the Territory shall then be free*. And that this independence shall, without unnecessary delay, be confirmed and ratified by an instrument, promulgated in such form and substance as Her Majesty may approve,* *finally freeing them from their allegiance to the British Crown*,

* It is important to notice this very absolute and unreserved release of country and people from sovereignty and allegiance; as now, in order to steal a part of the Orange Free State (the diamond fields), the above facts are actually denied !

and declaring them to all intents and purposes a free and independent people, and their Government to be treated and considered thenceforth as a free and independent Government.

“Art. II.—The British Government has no alliance whatever with any Native Chiefs or Tribes to the northward of the Orange River with the exception of the Griqua Chief, Kaptyn Adam Kok ; and Her Majesty’s Government has no wish or intention to enter hereafter into any Treaties which may be injurious or prejudicial to the interests of the Orange River Government.

“Art. III.—With regard to the Treaty existing between the British Government and the Chief, Kaptyn Adam Kok, some modification of it is indispensable. Contrary to the provisions of that Treaty, the Sale of Lands in the Inalienable Territory has been of frequent occurrence, and the principal object of the Treaty thus disregarded. Her Majesty’s Government therefore* *intends to remove all restrictions preventing Griquas from selling their lands ;* and measures are in progress for the purpose of affording every facility for such transactions, *the Chief, Adam Kok, having for himself concurred in and sanctioned the same.* And with regard to those further alterations arising out of the proposed revision or relations with Kaptyn Adam Kok, in consequence of the aforesaid Sales of Lands having from time to time been effected in the Inalienable Territory, contrary to the stipulations of the Maitland Treaty, it is the intention of Her Majesty’s Special Commissioner personally, without unnecessary loss of time, to establish the affairs in Griqualand on a footing suitable to the just expectations of all parties.

“Art. IV.—After the withdrawal of Her Majesty’s Government from the Orange River Territory, the New Orange River Government shall not permit any vexatious proceedings towards those of Her Majesty’s present subjects remaining within the Orange River Territory who may heretofore have been acting under the authority of Her Majesty’s Government, for, or on account of, any acts lawfully done by them, that is, under the law as it existed during the occupation of the Orange River Territory by the British Govern-

* Upon the strength of this arrangement, shortly afterwards the whole of Adam Kok’s territory was taken over and purchased outright by the New Orange River Government for the new State, “the Orange Free State.”

ment: such persons shall be considered to be guaranteed in the possession of their estates by the New Orange River Government. Also, with regard to those of Her Majesty's present subjects who may prefer to return under the dominion and authority of Her Majesty to remaining where they now are, as subjects of the Orange River Government, such persons shall enjoy full right and facility for the disposal and transfer of their properties, should they desire to leave the country under the Orange River Government at any subsequent period within three years from the date of this Convention.

“Art. V.—Her Majesty's Government and the New Orange River Government shall, within their respective territories mutually use every exertion for the suppression of crime, and keeping the peace, by apprehending and delivering up all criminals who may have escaped or fled from justice either way across the Orange River; and the Courts, as well the British as those of the Orange River Government, shall be mutually open and available to the inhabitants of both territories for all lawful processes. And all summonses for witnesses, directed either way across the Orange River, shall be countersigned by the Magistrates of both Governments respectively to compel the attendance of such witnesses when and where they may be required; thus affording to the community North of the Orange River every assistance from the British Courts, and giving, on the other hand assurance to such Colonial Merchants and Traders as have naturally entered into credit transactions in the Orange River Territory during its occupation by the British Government, and to whom, in many cases, debts may be owing, every facility for the recovery of just claims in the Courts of the Orange River Government. And Her Majesty's Special Commissioner will recommend the adoption of the like reciprocal privileges by the Government of Natal in its relations with the Orange River Government.

“Art. VI.—Certificates issued by the proper authorities—as well in the Colonies and possessions of Her Majesty as in the Orange River Territory—shall be held valid and sufficient to entitle heirs of lawful marriages, and legatees, to receive portions and legacies accruing to them respectively, either within the jurisdiction of the British or Orange River Government.

“Art. VII.—The Orange River Government shall, as hitherto

permit no Slavery or Trade in Slaves in their territory North of the Orange River.

“Art. VIII.—The Orange River Government shall have freedom to purchase their supplies of ammunition in any British Colony or possession in South Africa, subject to the laws provided for the regulation of the sale and transit of ammunition in such British Colonies and possessions; and Her Majesty’s Special Commissioner will recommend to the Colonial Government that privileges of a liberal character, in connection with Import duties generally, be granted to the Orange River Government, as measures in regard to which it is entitled to be treated with every indulgence, in consideration of its peculiar position and distance from the sea-ports.

“Art. IX.—In order to promote mutual facilities and liberty to Traders and Travellers—as well in the British possessions as in those of the Orange River Government; and, it being the earnest wish of Her Majesty’s Government that a friendly intercourse between these territories should at all times subsist, and be promoted by every possible arrangement, a Consul or agent of the British Government, whose especial attention shall be directed to the promotion of these desirable objects, will be stationed within the Colony, near to the frontier, to whom access may readily at all times be had by the inhabitants on both sides of the Orange River, for advice and information, as circumstances may require.”

This done and signed at Bloemfontein, on the Twenty-third day of February, One Thousand Eight Hundred and Fifty Four.

GEORGE RUSSELL CLERK, K.C.B.,

Her Majesty’s Special Commissioner.

JOSIAS PHILIP HOFFMAN, PRESIDENT,

GEORGE FREDRIK LINDE,

G. J. DU TOIT, FIELD-CORNET,

J. J. VENTER,

D. J. KRAMFORT,

H. J. WEBER, JUSTICE OF THE PEACE AND FIELD COM-
P. A. HUMAN, [MANDANT,

J. T. SNYMAN, LATE FIELD COMMANDANT,

G. P. VISSER, JUSTICE OF THE PEACE,

J. GROENENDAAL,

J. J. RABIE, FIELD-CORNET,

E. R. SNYMAN,

S. P. DU TOIT,
H. L. DU TOIT,
F. P. SCHNEHAGE,
M. J. WESSELS,
C. J. F. DU PLOOI,
F. P. SENEKAL, FIELD-CORNET,
P. L. MOOLMAN, FIELD-CORNET,
J. I. J. FICK, JUSTICE OF THE PEACE,
P. M. BESTER, JUSTICE OF THE PEACE,
W. A. VAN AARDT, FIELD-CORNET,
W. J. PRETORIUS,
J. J. BORNMAN,
A. H. STANDER.

COPY OF A DESPATCH

FROM THE DUKE OF NEWCASTLE TO SIR GEORGE CLERK.

(No. 7.)

"Downing Street, February 13th, 1854.

"SIR,—With reference to my Despatch, No. 4, of the 14th November last, on the affairs of the Orange River Sovereignty, I now transmit to you an order of Her Majesty in Council approving of a proclamation to make known the abandonment of the Queen's sovereignty over the said territories, and ordering that the said proclamation shall be promulgated by you on or before the first day of August next ensuing.

"I have transmitted to Sir George Cathcart the letters patent under the great seal revoking Her Majesty's letters patent of the 22nd March, 1851, constituting the Orange River Territories to be a distinct Government, and I have furnished him also with a copy of the order in council herewith enclosed.

"I have, &c.,

"Sir George Clerk,
&c. &c."

(Signed)

NEWCASTLE.

Enclosure in No. 6.

At the Court at Buckingham Palace, the 30th day of January, 1854.

PRESENT :

The Queen's most Excellent Majesty in Council.

"WHEREAS Lieut.-General Sir Henry George Wakelyn Smith, administrator of the Government of the Colony of the Cape of Good

Hope in South Africa, and Her Majesty's High Commissioner for the settling and adjustment of the affairs of the territories in South Africa, adjacent and contiguous to the eastern and north-eastern frontier of the said Colony, did, on the 3rd day of February, 1848, by proclamation under his hand and the public seal of the Colony of the Cape of Good Hope, proclaim and make known the sovereignty of Her Majesty over the territories north of the Great Orange River, including the countries of Mosheesh, Moroko, Molet-sani, Sinkonayala, Adam Kok, Gert Taaybosch, and of other minor Chiefs, so far north as to the Vaal River and east to the Drakensberg or Quathlamba mountains: And whereas the said Sir Henry George Wakelyn Smith did, on the 8th day of March in the same year, by another proclamation under his hand and the public seal of the said Colony, proclaim, declare, and make known the system contained in the said proclamation for the Government of the territory between the Orange and Vaal Rivers, described as being then under the sovereignty of Her Majesty:

"And whereas by letters patent under the great seal of the United Kingdom of Great Britain and Ireland, bearing date the 22nd of March, 1851, Her Majesty did, after reciting the said first-mentioned proclamation, ordain and appoint that the said territories therein described should thenceforth become and be constituted a distinct and separate government, to be administered in her name and on her behalf by the Governor and Commander-in-Chief for the time being in and over her settlement of the Cape of Good Hope, or otherwise as in the said letters patent is provided: And did by the said letters patent ordain and appoint that the said territories should thenceforth be comprised under and be known by the name of the Orange River Territory; and did by the said letters patent, and by certain instructions under the sign manual bearing even date therewith, make further provision for the good government of the said territory: And whereas Her Majesty did, by a commission under her royal sign manual and signet, bearing date at Buckingham Palace the sixth day of April, 1853, in the sixteenth year of her reign, appoint Sir George Russell Clerk, Knight Commander of the most Honourable Order of the Bath, to be Her Majesty's Special Commissioner for the settling and adjustment of the affairs of the said territories designated as the Orange River Sovereignty:

"And whereas it has seemed expedient to Her Majesty, by and with the advice of her Privy Council, to abandon and renounce for

herself, her heirs, and successors *all dominion and sovereignty of the Crown of the United Kingdom of Great Britain and Ireland over the territory aforesaid and the inhabitants thereof*, and to order the withdrawal of all her officers and ministers, military and civil, from the said territory, *to the intent that the said territory may become and remain from henceforward independent of the Crown of the said United Kingdom :*

“ And whereas Her Majesty has accordingly, by her letters patent under the great seal of the said United Kingdom, bearing even date herewith, revoked and determined the hereinbefore recited letters patent of the 22nd March, 1851 :

“ And whereas there hath this day been laid before Her Majesty in Council the draft of a proclamation to be promulgated in the said territory, declaring the revocation of the said letters patent and the abandonment and renunciation of her dominion over the said territory in manner aforesaid (a copy of which is hereunder written) :

‘ ORANGE RIVER TERRITORY.

‘ PROCLAMATION.

‘ Whereas we have thought fit by and with the advice of our Privy Council, and in exercise of the powers and authorities to us in that behalf appertaining, *to abandon and renounce* for ourselves, our heirs, and successors, *all dominion and sovereignty* of the Crown of the United Kingdom of Great Britain and Ireland *over the territories* designated in our letters patent of the 22nd March, 1851, by the name of the Orange River Territory and have revoked and determined the said letters patent accordingly :

‘ We do for that end publish this our Royal Proclamation, and do hereby declare and make known *the abandonment and renunciation of our dominion and sovereignty over the said territory and the inhabitants thereof.*

‘ Given, &c.’

“ Her Majesty is therefore pleased by and with the advice of her Privy Council, to approve the said Proclamation, and to order, and in pursuance and exercise of the powers and authorities to her in that behalf appertaining, it is hereby ordered that the said Proclamation shall be promulgated by the said Sir George Russell Clerk, on or before the first day of August next ensuing ; and that upon

and from and after such promulgation thereof *all dominion and sovereignty of Her Majesty over the said territory and the inhabitants thereof shall absolutely cease and determine*, and her officers and ministers, military and civil, shall with all the convenient speed be withdrawn from the said territory.

“And the most noble the Duke of Newcastle, one of Her Majesty’s principal Secretaries of State is to give the necessary directions herein accordingly.

“C. C. GREVILLE.”

TWENTY YEARS PEACE.

CHAPTER IV.

ANTI-BOER POLICY OF THE ENGLISH AND COLONIAL GOVERNMENTS. PROGRESS OF POLITICAL EVENTS IN THE FREE STATE. WATERBOER'S FIRST AND ONLY TERRITORY SOUTH OF THE VAAL.

BRITISH INTERFERENCE COMMENCES AGAIN (WHEN DIAMONDS ARE DISCOVERED), AFTER A LAPSE OF TWENTY YEARS.—PERSECUTION OF THE BOERS, OR EMIGRANT FARMERS.—OPINIONS OF ATTORNEY-GENERAL PORTER, EARL GREY, AND SIR GEO. CATHCART.—THE MOTIVE FOR INTERFERENCE.—WATERBOER AND CORNELIUS KOK.—D'URBAN TREATY OF 1834.—ORIGIN OF LINE FROM RAMAH TO DAVID'S GRAF.—EVIDENCE OF HENDRIK HENDRIKSE.—MAJOR WARDEN'S REPORT.—WATERBOER'S FIRST CLAIM SOUTH OF THE VAAL.—EVIDENCE PER CONTRA.—DEATH OF ANDRIES WATERBOER.—TREATY NOT RENEWED WITH HIS SUCCESSOR, NICHOLAS WATERBOER.—GRIQUA SCHEMES RESULT IN THE FIRST RECOGNITION OF WATERBOER SOUTH OF VAAL.—THE "VETBERG LINE :"—RECOGNIZED BY SIR GEORGE GREY.

Henceforth, from the date of the Convention, the country lying between the Vaal and Orange Rivers, occupied by white settlers, has been in fact and in law a free and independent nation, known to and recognized formally by all the great powers of the world as the Orange Free State.

For nearly a score of years even the Cape Colony Government never infringed or interfered with the rights and privileges, the entire independence, territorial and political, of the new State; yet now, forsooth, *since diamonds have been discovered therein*, the

aforesaid Government suddenly backs up Waterboer, and seizes, in the old fashion, *vi et armis*, upon a portion of the Free State territory, which has been in the undisturbed and unquestioned possession of its people during all those years! And this possession, be it clearly remembered, was sanctioned, maintained, and specially legalized, in nearly every instance, *by the British Government itself*, during the time of the Sovereignty! Special legal instruments, as Sir H. Smith's treaties, were composed for the purpose; and when the government of the country was made over to the newly-created Free State, all those laws, privileges, territorial rights, and titles to land tenure were especially transferred to it; whilst it was, moreover, bound to maintain them inviolate.

This ceaseless persecution, this plunder of and persevering tyranny over a weak, unoffending, and comparatively helpless people, constitutes one of the meanest, most despicable, and hypocritical of England's foreign policies.

Before proceeding to investigate the proceedings of the Griquas from the period I last left them at, and analyzing and criticising the claim put forth to the diamond-fields by Waterboer, and their seizure by an act of hostile invasion and robbery of the Free State, ostensibly in his cause, by the Colonial Government of Cape Town, I cannot refrain from a digression, perhaps, in explanation and condemnation of the cruel, unfriendly, and unrighteous policy in question.

What can be the cause, the real motive power, for this seemingly inveterate persecution of the unsupported South African colonists of Dutch descent by the British colonists, supported (whenever aid is

required) by the full power of Her Majesty's Government?

Before answering the question, in case any one may deny the hostile persecution, I will just quote a few extracts from Attorney-General Porter's memorandum already used in this work, and, as he was always one of the most distinguished members of the Government accused, his statements of its acts will no doubt be believed.

* "13. Is, then, the Orange River Sovereignty a colony by occupancy? It seems absurd to say that those lands have been acquired by the occupancy of the very emigrants (the *boers whom we laboured to exclude from them*. . . . As real powers the native chiefs exist no longer. *Everything that could be tried was tried by the British Government to preserve their theoretical supremacy.*"

From Mr. Porter's second memorandum we take the following:—

† "7. It is indisputable, I conceive, that we crossed the Orange River, not to bestow upon the emigrant boers the power of doing what they pleased, but to deprive the majority of the emigrant boers of the power. . . These emigrants did not want us. They prayed for nothing but to be let alone

"9. His Excellency the Governor will not understand me as presuming to condemn the policy of recognizing the independence of the boers beyond the Vaal . . That it reverses the whole previous policy of Great Britain is not less clear. That their allegiance was inalienable, and their independence a dream, was the doctrine of the British Government down to the other day. *It was the doctrine asserted by force of arms at Natal, 1842. It was the doctrine asserted by force of arms at Swart Kopjes in 1845. It was the doctrine asserted at Boem Plaats in 1848. It was the doctrine of a yet later date. 'It*

* *Vide* p. 10, Blue Book, "Orange River Correspondence, 1851—4."

† *Vide* p. 76, Blue Book (No. 2), "Orange River Correspondence, 1851—4."

is clear,' says Earl Grey, in his despatch, No. 546,* of the 29th November, 1850, 'that the boers have not the slightest claim to the territory which they occupy beyond the Vaal River, and I trust that no time will be lost in carrying into effect the measures which I have recommended for encouraging and assisting the native tribes whom they are oppressing, to assert their right, and to defend themselves.' In truth we not only refused to acknowledge the boers to be independent of ourselves, but we interfered to *compel the boers to acknowledge their dependence upon the native chiefs in whose lands they were settled.*'"

Although Earl Grey saw so clearly that the *boers* had not the slightest claim to their territory, it is singular that exactly thirteen months later, on the 17th January, 1852, the British Government and the Duke of Newcastle saw just as clearly exactly the reverse, and made a special treaty and convention with those very *boers*, by which (*Article 1*) was guaranteed, * "in the fullest manner, on the part of the British Government, to the emigrant farmers beyond the Vaal River, the right to manage their own affairs, and to govern themselves without any interference on the part of Her Majesty's Government *on the territory beyond to the North of the Vaal River*, with the further assurance that the warmest wish of the British Government is to promote peace, free-trade, and friendly intercourse with the emigrant farmers," &c. . .

Having hunted, harassed, and tyranized over the *boers* as long as ever possible; having relentlessly followed them up step by step with armed force to terrorize over them and compel their submission to our foreign yoke; and having, when they fled too far

* *Vide* p. 97, Blue Book, "Orange River Correspondence, 1851—4."

† *Vide* p. 86, Blue Book (No. 3), "Orange River Correspondence, 1851—4."

away for us to follow in the wilderness, vainly striven to combine and aid the Kafirs against them; immediately the last and most atrocious hostile policy of all has failed, the above fulsome protestations of love and undying friendship, complete recognition of rights, &c., always before so violently resisted, become *en règle*!

Well, this may be very fine diplomacy; but I, for my part, call it rank hypocrisy. Statesmen may term it sound policy, but conscientious, simpler men will deem it merely degrading to a great and powerful nation.

Attorney-General Porter, in concluding that paragraph of his report upon the recognition of *boer* independence last quoted from, states: "But I, for my own part, frankly confess that it is not without a feeling of regret that I witness the reversal of what was so long a cherished and, *in its principle, a most noble policy.*" . . .

Hardly, Mr. Porter! The one *sine qua non* to make this principle so noble would be that the *boers* were always wrong, and the natives always right. But then, if the natives are always right, how awfully wrong must England be for her numerous Kafir wars!

No one would more readily than myself endorse as noble—too noble, I fear, for any nation—a policy which invariably maintained the right against the wrong. The principle would simply be perfection; the practice assuredly sadly imperfect. At all events, I quite fail to perceive why the principle of always aiding the "most merciless and irreclaimable savages"*

* *Vide* Despatch of Sir Harry Smith to Earl Grey, p. 83, Blue Book, 'Orange River Correspondence, 1881—4.'

of Africa against a white and Christian people should be noble.

Whilst on this subject I cannot refrain from quoting Governor Sir Geo. Cathcart's opinion thereon ; which, although, perhaps, not so very noble as an abstract principle, is indeed a most sound and admirable policy to practise :—

* “With regard to Mr. Porter's expression of opinion as to the doctrine of interference in native quarrels, or even between remote settlers and their neighbours, founded on motives of humanity, experience has convinced me that in most cases the evil is aggravated ultimately by interference ; for that, although the white settler has a tendency to encroach, and it appears to be a law of nature that he should prevail, *his individual interest is more to live in peace with his neighbour than to quarrel with him*; his encroachments are gradual, for he covets and grasps at no more than he wants, and, possibly, though I fear but rarely, his object is accomplished by fair means. Whereas, on the other hand, when military interference is had recourse to, it is apt to commence on slight grounds, and terminate, after much bloodshed, in the extirpation of the whole hostile race, and in the acquirement of vast territories which cannot be adequately occupied for ages to come, and in the meantime only to be retained as waste lands under military control.”

We will now consider certain facts in reply to the query as to why England has so long, and especially now, at the present time, pursued a hostile and aggressive policy against the *boers*.

What has always been urged by Her Majesty's representatives as the excuse to justify annexation and slaughter as applied against the Dutch settlers, is the accusation that the latter have encroached, were sus-

* *Vide* Despatch from Sir G. Cathcart to the Secretary of State for the Colonies, November 14, 1852, p. 73, Blue Book (No. 2), “Orange River Correspondence, 1851—4.”

pected of encroaching, or at some previous time had encroached upon native territories.

Whatever they might, could, would, or should have done in this particular, I cannot find any very glaring or definite accusation as to what they *have* done; moreover, we Englishmen are the very last people in the universe from whom any such charge should proceed.

What! are the Free Staters to be bullied, oppressed, even butchered by Britishers upon the pretence that they plunder and maltreat “niggers!” How godly and upright, how inordinately just and righteous, these *soi-disant* protectors of the dear blacks would appear to have become—since diamonds have been found in South Africa! Why, the ever memorable act of Nelson, when he placed the telescope to his sightless eye, and could not see that which he would not, is infinitely surpassed in its hypocrisy and deceit (not its heroic determination) by these modern disciples of the beings “who have eyes but see not.” They have closed both their eyes; utterly blinded themselves. Not only have they obscured their vision physical, but also that mental have they covered up and hidden with a black, impenetrable veil. And to this utter darkness have they applied the telescope with which to spy and pick out the mote in their neighbour’s eyes, utterly,—with an astounding assurance,—oblivious to the huge beam in their own.

What! dare Englishmen—or one, only one, of just mind, ordinary knowledge and intelligence—be found to support the unfriendly, unjustifiable acts now perpetrated and perpetrating against the Orange Free

State upon the plea that the latter has encroached upon the territory of natives, and, therefore, that it has become the duty of England to step in and protect them ?

Need the utter truthlessness, the gross hypocrisy, of such a pretence be illustrated ? Is it not a truism—absurd, sickening to repeat by reason of its well known, glaring, every-day presence and admission—that, turn in whatsoever direction you may, north, south, east, or west—go whithersoever you please over that empire on which thoughtless patriots have vain-gloriously boasted that the sun never sets—you find the results of the most gigantic system of wrong and spoliation, of encroachment upon native rights and lands, this round and, be it observed, curious sphere has ever experienced ? Europe, Asia, Africa, America, Polynesia, all bear the dents and holes of British bombs and bayonets ! Why, we are getting to the story of Alexander the Great and the poor bandit again ! For one inch the Free State farmers have ever encroached, England has seized square miles of country which did not belong to her.

It is hardly necessary to go into the argument against the blessings and benefits of “Christianity and civilization,” as its disciples term it, as illustrated by the acts of Great Britain ; though I will assert that my own opinion has ever been that England had no right to “meddle and muddle,” to rob and plunder, all over the world upon the pretext, forsooth, that she could rule and govern the peoples (rich in spoil and land, but weak in military strength better than they could themselves. Neither can I perceive her justification for slaughtering the ignorant savages—as,

par exemple, the Maories, or the semi-civilized Asiatics the East Indians,—when they chose to think otherwise, and strove to resist foreign rapacity and aggression. Moreover, it does not quite clearly appear how those who perished before our superior weapons were to experience the “blessings,” &c., of Christ and civilization. But it is idle to digress upon a subject that could well occupy the pens of several hundred philosophers and moralists. To destroy the encroachment pretence it is quite sufficient merely to mention Heligoland, Gibraltar, Malta, the Channel Islands, North America, Hong Kong, and the Treaty Ports in China, ditto in Japan, British India, the African Colonies, Polynesia and New Zealand ; in which latter Island the natives having become averse to part with more of their lands, it was publicly advocated (and I for years possessed proofs thereof) that, as the Colonists required more ground, and the Maories would not sell, the plan was to drive them into rebellion, and then obtain the coveted territories by confiscation !

And now, after proving that England could have no *moral* right or reason to interfere against the Free State alleged encroachment upon natives, I beg to point out the alternative—that she might] have a material, selfish, jealous motive. There exists the sentiment represented by the pleasing little parable of the dog in the manger ; and people always hate those whom they wrong, especially when they persecute them without cause or provocation. There exist amongst the nations of men, as amongst the individual members of the human race, the passions of envy, jealousy, and hatred.

To accuse the Free State of aggression, indeed, to

justify *our* aggressions upon it ! As a great statesman lately wrote :—

“When have plausible pretexts and honourable names been wanting to warrant our seizing on our neighbour’s property and cutting his throat in the event of his resisting ? Formerly religion was the most convenient word—now-a-days the term ‘nationality’ has come into fashion, being pompous, obscure, and empty, which is the very ideal of a war cry. Then diplomacy steps in, in its turn, to cover the whole with a tissue of fine sounding words, and draw up formal deeds for the winner’s benefit. It is nothing, in fact, to break into a house ; it is requisite also to insist on title-deeds being given up, that shall be valid—so long as the new-comer remains strongest.”

How well this applies to England’s seizure of the diamond fields !

When the Free State is accused of aggressing, what, I should like to know, was the British seizure of the Cape ? the persistent following up of the Dutch colonists and their descendants ? the forcible taking possession of the new lands they have reclaimed from the wilderness ever since ?

The pretence has been always made that these emigrant farmers were British subjects, and so could not establish an independent government for themselves ; that they bore the burden of a heavy and interminable allegiance to a foreign power upon their backs wherever they might go. Yes, they were British subjects, by conquest, just so long as bayonets and villainous saltpetre made them so, and they chose to remain within the limits of their conquerors’ boundaries. But I have yet to learn that the free-born subjects of one state can be released from their allegiance and become for ever the subjects of another state simply upon its seizing by force of arms the territory where

they reside; or, that, when they fly from their old residences and the foreign conquerors they still remain the subjects, slaves, or vassals of the latter!

Singularly enough, long after writing the above opinion, I accidentally came across a statement of Attorney-General Porter's in strict accordance: *

"I should have contended that conquest naturalizes all *who elect to remain under the Government of the conquerors . . .* and that in regard to the Cape, if a man who did not remove himself within a reasonable time after the capture, or, at all events, after the cession, owed no allegiance to England, he owed no allegiance at all."

But away with the false, paltry, hypocritical pretences ever advanced to justify persecution of the *boers*! The truth seems to be that Great Britain alone (by some occult divine right) can seize, plunder, annex, and found colonies wherever she pleases on other people's lands. And what! Some of the people she dispossesses of their property and nationality refuse to submit to it by taking up waste land and fleeing to found a new home in the wilderness! After them! Seize upon them! Take all that they have newly acquired! Slay them if they do not like it and resist! They are *rebels*!

Such seems to be the only explanation of the hostile policy of England towards the *boers*, and to which she has, after a long interval, now returned by her aggression upon the Orange Free State.

We must now revert to the Griquas north of the Vaal, whom we left, in Chapter II., very comfortably divided into two bodies, under the respective chiefs, Andries Waterboer and Cornelius Kok; the boundary

* *Vide* p. 12, Blue Book, "Orange River Correspondence, 1851-4."

line between them being that made by the paramount chief, Dam Kok, of Philippolis, in about the year 1820.

We have also seen that up to that period neither of the subordinate chiefs had any ground, or claim to ground, south of the Vaal River.

But as the Philippolis Griquas seem to have settled close about that town, and to have quite abandoned the territory in the vicinity of the Vaal, so, gradually, though to a very trifling extent, their northern brethren seem to have used, as occasional pasturage, the land on the south bank, near to the confluence with the Orange River.

* In the year 1834, Waterboer, by the aid of his missionary, obtained a treaty with the Governor of the Cape, Sir Benjamin D'Urban; the only important point in this treaty being that it mentions the first claim ever made by the northern Griquas to any land south of the Vaal, as the only boundary line therein stated, viz., that between Waterboer and the Cape Colony—"from Keis to Ramah"—both on the Orange River. As Hendrik Hendrikse pointed out, the evident object of this treaty was to preserve the integrity of the northern boundary of the colony.

Some years subsequent to this both Waterboer and Cornelius Kok began to squabble about the patch of land between the confluence of the Vaal and Orange rivers, Cornelius Kok in the meanwhile selling farms thereon to various *boers*, or emigrant farmers. According to the evidence† of Hendrik Hendrikse, at the time Government Secretary to the Chief of Philippolis,

* *Vide* "Book of Treaties," Cape Colony, p. 13, 1853—54.

† *Vide* Blue Book, O.F.S., p. 12, Annexures, "Minutes of Meeting at Nooitgedacht."

Adam Kok, the latter wished to punish him for these sales:—

“He (Adam Kok) wished to punish Cornelius for the illegal sale of lands. But this came afterwards, before the Griqua Government, for the first places he sold in 1840 or 1841. The councillors and friends of Cornelius Kok interceded for him, and *Captain Adam Kok then made a line exclusive of the lands which had been sold, viz., FROM DAVID'S GRAF TO RAMAH.*”*

This is the first mention ever made of a line between the northern and Philippolis Griquas *south of the Vaal*, and as such is highly important. Ramah had been previously mentioned in Sir B. D'Urban's treaty and in some documents which have lately been produced by Waterboer; but Ramah is a place, a small *kraal* or village, not a line; and the above is the first authentic statement of one made from there in any direction whatever since the treaty with Sir B. D'Urban (referring to only one line “from Keis to Ramah,” along the Orange River), which lapsed on the death of Andries Waterboer, in 1852, when the then Governor of the Cape refused to renew it.

Moreover, it is still more important to remember that the above line was made between Adam Kok, of Philippolis, and Cornelius Kok, of Campbell, *and that Waterboer of Griqua Town had nothing whatever to do with it!*

It is even evident from the boundary defined by Sir P. Maitland in 1845 (and which mentions the line from David's Graf to Ramah as one boundary of Adam Kok's “inalienable” territory) that no other Griquas at all were recognized as being in *bonâ fide* occupation or ownership of land south of the Vaal.

* *Vide* Diagram B, chapter 3.

Hendrik Hendrikse (whose evidence has never been disputed) proves how vague and indefinite was the claim of Cornelius Kok at that time. He continues:

“Adam Kok declared this (if I am not mistaken, before Major Warden, in 1847), ‘That as Cornelius Kok could not return what he had received for the farms which he had sold, he (Cornelius Kok) could keep the ground (?) to the north of the line of David’s Graf’; upon which *the British Government*” (the residency previous to the sovereignty being then established) “issued land certificates for all farms sold to white people.”

And this very land, sold then by Cornelius Kok—the sale being sanctioned and legalized by the issue of title deeds to the farmers by the British Government—is that now claimed by *Waterboer*, and seized for him (from the people to whom it was formerly sold) by the British Government—that formerly made the sale binding !!!

Sir Harry Smith, as we have seen, again confirmed all the rights of the Sovereignty *boers*; he, also, never recognized any Griqua chief south of the Vaal except Adam Kok.

In the meanwhile, however, the Griquas of Waterboer from Griqua Town undoubtedly began to make occasional pasturage excursions, and set up a sort of claim, to the land immediately in the angle formed by the junction of the Vaal and Orange rivers, and to the west of Cornelius Kok’s equally vague and indefinite occupation.

In the year 1850, Major Warden, the British Resident, was engaged with a commission in surveying, for the Sovereignty Government, the very farms sold by Cornelius Kok, and also the boundaries of Adam Kok’s “inalienable” territory. From his report to

Sir Harry Smith* we obtain the following information :—

“On the 24th ultimo (July, 1850) I met Captain Cornelius Kok and his raad. The captain requests his Excellency to allot to him a large tract of country below David's Graf and between the Orange River.” (This is the very ground above mentioned.)

“Although he has long laid claim to this part of the country, his people, as far as I can learn, never occupied the same, except in very dry seasons, in search of pasturage . . . There is also another claimant in the person of the Griqua Waterboer, who states that Sir P. Maitland allotted to him the whole country between the Orange and Modder rivers, from Adam Kok's boundary to the banks of the Vaal River (*sic*)! Sir P. Maitland did *say* that the country of Waterboer should join that of Adam Kok; but the then Governor was not aware at the time that Waterboer's Griquas have as much country beyond the Vaal River as they could possibly make use of. The country claimed by the two captains is at least 50 miles in length, with an average breadth of about 40 miles. *Neither of them can establish much claim in right of occupation by their people, and the whole of that part of the country may be viewed as waste lands, save the few farms Cornelius Kok took upon himself to sell to boers.*”

We shall have occasion to use Major Warden's report again when reviewing the claim set up by the present Waterboer in 1870. No one acquainted with the country can deny the British Resident's correct view when he pointed out that the two chiefs were already in possession of far more land than they could use. To this day Waterboer's Griquas have vastly more land north of the Vaal than they know what to do with; they do possess a few horses, scanty flocks of goats, and a limited number of cattle; but as for cultivation or any real utilization of their extensive territory, it is a myth, a snare, and a delusion. Yet now, wonderful

* *Vide* p. 80, Blue Book, “Correspondence, H.M. High Commissioner and the President O.F.S., 1871.” (Note: In future this Blue Book will be referred to as “Capetown Blue Book, No. 1.”)

to tell, Great Britain seizes upon and plunders the Free State in order to give them more, it is pretended !

Sir P. Maitland's alleged promise was never carried out, nor ever even officially mentioned ; so with that we have no more to do. And the real desire of the two chiefs, in 1850, to get more land, and within the Sovereignty, was simply the very natural one of putting money in their purses by afterwards selling it to the *boers*, as Adam Kok had been doing for so many years with profit to himself, and the gratification of which pleasing process Cornelius Kok had already tasted in an illegal, surreptitious sort of way. At the present time the claim to *the same land*, and a great deal more, was put forth by Waterboer in consequence of the diamond discovery, and, reprehensibly enough, enforced *per fas et nefas* by the Colonial Government, so that they might have a finger in the glittering pie !

Having, in 1850, vainly put forward an unfounded claim to the triangular patch of ground at the fork of the Vaal and Orange rivers,—as about this time lands were being continually bought by *boers* from any Griquas who could show a legitimate title,—it cannot be a matter of surprise that Waterboer again, in 1851, advanced an even more preposterous claim than that of the previous year to territory south of the Vaal, in a letter addressed by him (or, rather, one of his clever missionary friends, who *would* attend to political as well as theological matters), on the 24th of May, to Governor Sir Harry Smith, declaring that—

* “ Having heard that a large proportion of *my territory* (*sic!*)

Vide p. 46, Annexures, Blue Book, O.F.S., “ Minutes of Meeting at Nootgedacht.”

situated between the Modder and Black (Orange) Rivers, has lately been taken possession of by the British Resident . . I went to Bloemfontein to see him on the subject. To my great surprise he told me that such was the fact, and when I urged my claim . . not only on the ground of occupation (?) and the right of chieftainship exercised over it for many years, but also that my right to it was recognized by the British Government, in a treaty. (Sir B. D'Urban's) . . . the British Resident did not seem to be aware of the nature or stipulation of that treaty."

This constitutes the first definite claim ever put forth to the country between the angle of confluence of the Vaal and Orange rivers—now known as Albania. The alleged verbal promise of Sir P. Maitland had by this time (thanks to the lucubrations of the clerical politician aforementioned) transmuted and culminated in a much more formidable and pretentious claim.

Having taken particular pains to investigate the matter, I long ago concluded, before leaving the country, that this asserted "occupancy and chieftainship right" was utter bosh. About the year 1846 some of Waterboer's Griquas went to a spot known as Backhouse, *on the Vaal River*, between the Orange and Modder rivers, under the guidance of a Mr. J. Hughes, a missionary, intending to construct certain irrigation works (it is alleged). But nothing was done, although the missionary put up a station there. The only other spot ever occupied by Griquas as a *kraal* was at Ramah, *on the Orange River*, and they were *Philippolis Griquas*; but how this proves that those of Griqua Town had a territorial right, or how it illustrates Waterboer's title to the whole intervening tract of 1,500 square miles and more, utterly unoccupied by his people, deponent cannot tell.

And we have seen that Governor after Governor, and official after official, of the Cape Colony, thought likewise, and quite ignored any Griquas south of the Vaal besides Adam Kok's. As for the claim by right of treaty, as we have before pointed out, that instrument only mentions the *place* Ramah, *belonging to Adam Kok*, not one word appearing therein regarding lands to the eastward of, or, indeed, inland from it at all; and as that treaty very shortly (next year, in fact) expired, so any claim under it came to an end, and thus disposes of the following statement of Waterboer or his missionary in the next paragraph to that already quoted :—

“The British Resident, when he saw the treaty, admitted that my claim to the tract of ground was clear. . . . I would, therefore, beg that your Excellency would make arrangements for the *restoration* of that tract of land to me and my people.”

A rather cool request as neither Major Warden nor his commission could find any *possessors* when they surveyed that part of the country just previously.

1. His Excellency Sir H. Smith took no notice of the matter.

2. Major Warden, in his report lately quoted from, expressly declared that “*both Waterboer and Kok are chiefs residing with their people beyond the Vaal River.*”

3. * Lieut.-Gen. Sir Geo. Cathcart, who succeeded Sir H. Smith as Governor of the Cape, in a despatch to the Secretary of State for the Colonies, dated Fort Beaufort, May 20, 1852, states :—

“On the subject of the affairs of the Orange River Sovereignty, within that extensive district of country nearly 1,000 miles in cir-

* *Vide* p. 38, Blue Book (No. 2), “Orange River Correspondence, 1851—4.”

cumference, embraced between the Orange and Vaal rivers, *with the exception of the small insulated territory of the Griqua Chief, Adam Kok. . . . the whole population of European origin as well as aborigines are under Her Majesty's Government.*"

This "exception" is distinct enough, and we shall see, by and by, that in order to get out of another difficulty—*viz.*, that when the British sovereignty was abandoned, all its rights, privileges, and territories were made over to the Orange Free State,—Waterboer's present backers and supporters, the Colonial Government, although claiming a large tract of ground for him, South of the Vaal, declare that, "*He was always independent also, and was never subject to Her Majesty's Government,*" &c.; thus very simply getting fixed between the horns of a dilemma.

In order to afford proof of so grave a charge at once, I quote the following passage from a despatch of Lieut.-Gen. Hay, then Governor of the Cape, and High Commissioner, in support of the present Waterboer's claim to the diamond-fields, bearing date Capetown, 12th November, 1870, and written to the President of the Orange Free State:—

4. * Paragraph 21, referring to the "difficulty" above mentioned, states:

"It appears to me that Sir H. Smith proclaimed Her Majesty's sovereignty over *territories*—"

No, that is not the truth, it was over *all* the territories,—"*proclaim, declare, and make known our sovereignty over the territories north of the Great Orange River, including*" *all known chiefs*; by name, "*so far*

* *Vide* p. 99, Blue Book, "Correspondence between H.M. High Commissioner and the President of the Orange Free State, 1871." Capetown.

north as to the Vaal River,"—so says the Queen's Charter *—

"—over territories between the Orange and Vaal rivers, belonging to certain chiefs (mentioned by name), and other minor chiefs whose names are not given. *Waterboer was not named.* Nor was he a minor chief to these who were named, such as Adam Kok, Moshesh, &c."

An utterly incorrect statement. We have seen that Adam Kok was the principal or paramount Griqua chief; Moshesh, the great chief of the Basutos, could put 5,000 warriors in the field, whereas Waterboer's Grikvas never numbered 200 families in all!

"*Nor was he, in fact, resident between the Orange and Vaal rivers,* which seems sufficient proof that his lands were not *intended to be included* within the limits of the Sovereignty!"

No, General Hay, this quibble will not do. The Sovereignty embraced *every inch of ground* within its clearly defined limits; yet you would try to prove that, although Waterboer himself was not within it, yet lands of his were, and that, *because* he was not mentioned, those lands were not included within the jurisdiction, &c., of the Sovereignty. If he was not named because not resident there, as they were not named, neither were lands of his either included or excepted from the limits of the Sovereignty. It is astounding that one moment the Colonial Government maintains Waterboer's claims to land south of the Vaal (South Adamantia, in fact), and the next, in order to avoid a destructive argument, denies them!

5. If any further proof were wanting that at this time no one ever dreamed of admitting the Waterboer claims to territory south of the Vaal, it is supplied by

* P. 133, Blue Book, No. 2, "Orange River Correspondence, 1851—4."

the present chief (the second) of that name himself! When, in 1864, some such flimsy claim was again brought forward by the Griqua Town Chief, and urged against the right of the Orange Free State to the land in question, Waterboer produced the sworn deposition of a Mr. Edward Solomon, a minister of the Bedford Free Church, and formerly of Griqua Town, in his favour; from which we find that, after endorsing the complaints of Waterboer already quoted from the latter's letter to Sir H. Smith, he declares that :

(*) "When Her Majesty's Assistant Commissioners, Hogge and Owen, arrived in the country, *Waterboer also wrote to them*, complaining of the act of the British Resident. This I know as *I* was the writer of the letter." (Oh, oh ! so here we have the political missionary. He, no doubt, was the inventor of its contents, as well as its writer. Certainly not a very disinterested witness; but he proves too much. In railing against the injustice of the British officials, and their neglect of his *protégé's* claims, he clearly demonstrates that the latter were *disallowed*.)

"A letter was also written to Sir George Cathcart on the same subject, but the only reply ever received to those different letters and remonstrances, as far as I know, up to July 1857. . . . was a verbal one through Mr. Owen, which was delivered to me with a request that I would communicate it to Waterboer, 'that his Excellency, Sir G. Cathcart, had received Waterboer's letter, and that he (Waterboer) might rest assured that justice would be done him.'"

Then comes an impertinent paragraph reflecting upon Mr. Owen and General Cathcart, proving that the reverend gentleman was rather irritable as well as political. "Justice," no doubt, *was* "done" to Waterboer; and I for one would be extremely averse to question any act of General Cathcart's. Indeed, from the principles of high honour and justice pervading

* *Vide* p. 49, Annexures, Blue Book, O.F.S. "Minutes of Meeting at Nooitgedacht, 1870."

every despatch he wrote, I have experienced greater pleasure than ever before fell to my lot during critical investigation and analysis of diplomatic and official papers. Knowing that Waterboer had not a tittle of right to land south of the Vaal, he never recognized his claims.

"When Sir George Clerk visited the Sovereignty as Her Majesty's Special Commissioner, this matter was also brought before him."

(By our reverend friend, again, it appears.)

"I spoke to him several times about it."

(Alas! Sir George Clerk, like his predecessors, gave no heed to the plaint; and the same may be said of the statement with which the reverend gentleman's deposition concludes:)

"When in Cape Town, in 1855, I had several opportunities of mentioning this subject to his Excellency Sir George Grey; but, as I was not authorized by the chief, Waterboer, to act for him, *it is not necessary to state any particulars* of my interview with his Excellency."

(That is a pity, because those who do not honour and respect Mr. Solomon may conclude that, as he was trying to give evidence in favour of Waterboer, these suppressed "particulars" were adverse.)

Deeming the five cases in which it is proved that no Griqua rights, save those of Adam Kok, were ever admitted south of the Vaal up to 1852 amply sufficient, in addition to the evidence previously adduced upon that subject, we will proceed with our narration of political events.

In December, 1852, Andries Waterboer, the chief whom we have seen old Dam Kok appointed over Griqua Town, and whose claims south of the Vaal we have

just dealt with, died at that place, and was succeeded by his son, the present chief, Nicolas Waterboer, upon the election of the people, and not, apparently, by reason of any hereditary right, which latter seems to have pertained solely to the Koks.

Immediately afterwards, by the aid and advice, I believe, of a Mr. J. Hughes, a missionary residing at Griqua Town, several of the burghers or councillors of that place applied for the recognition of their new chief, and the renewal of the old D'Urban Treaty. In their letter to Sir George Cathcart they say:—

* “That the said N. Waterboer hereby begs and requests for himself the approval and acknowledgment of the Colonial and English Governments of his being the lawful Captain and Chief of Griqua Town and surrounding districts.”

Here, *en passant*, we may observe that no mention is made of territory south of the Vaal; and it would be absurd to consider any lands beyond that important river, and so distant, as forming part of Griqua Town's “surrounding districts.”

After recognizing N. Waterboer in the above position, the Governor's reply expressly states that “the treaty entered into by Sir B. D'Urban with the late worthy and faithful ally, Andries Waterboer, *was personal*, and does not extend to aborigines consequent to his decease: *it has therefore ceased to be in force.*”*

It was *never* renewed, although the present Colonial Government have incorrectly chosen to term N. Waterboer, in the diamond field controversy, an ally.

During the next few years, as the Free State farmers did not occupy the whole of the lands, to which the Griquas' disallowed claim had been made, these latter gentry hit upon a very ingenious device by which to

* *Vide* p. 2, Blue Book (No. 3), “Orange River Correspondence, 1851—4.”

establish a right thereto. Waterboer and Cornelius Kok began to squabble about it, and to dispute its ownership; and as, of course, they could not agree, eventually called upon Adam Kok to decide between them. By this time the Sovereignty had been abandoned, and the Orange Free State established. Interested, naturally enough, in the simulated disputes and the revived claims going on to lands within the boundary which had been made over to them in its integrity by the British Government, the Free State executive instead of treating the two Northern Griqua chiefs with the indifference Her Majesty's officers had, and simply (as they were fully entitled to do) following so good an example and ignoring their claims, *were so inordinately anxious to preserve peace and do justice in the matter* as to fall into the Grikua's trap, by paying respect to their disputes, and by also calling upon Adam Kok to decide and arbitrate between them! And I am able to declare that this act constituted *the first official recognition* of the right of either Waterboer or Cornelius Kok to any interference with land south of the Vaal.

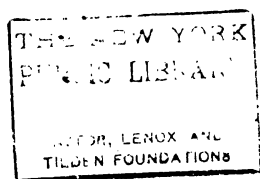
The result of this mild course was the definition of the following boundary line by Adam Kok between the rival claimants. This is known as the "Vetberg line," and, being accepted by the Orange Free State Government, *gave to Waterboer his first and only legal right on that side of the Vaal* :—

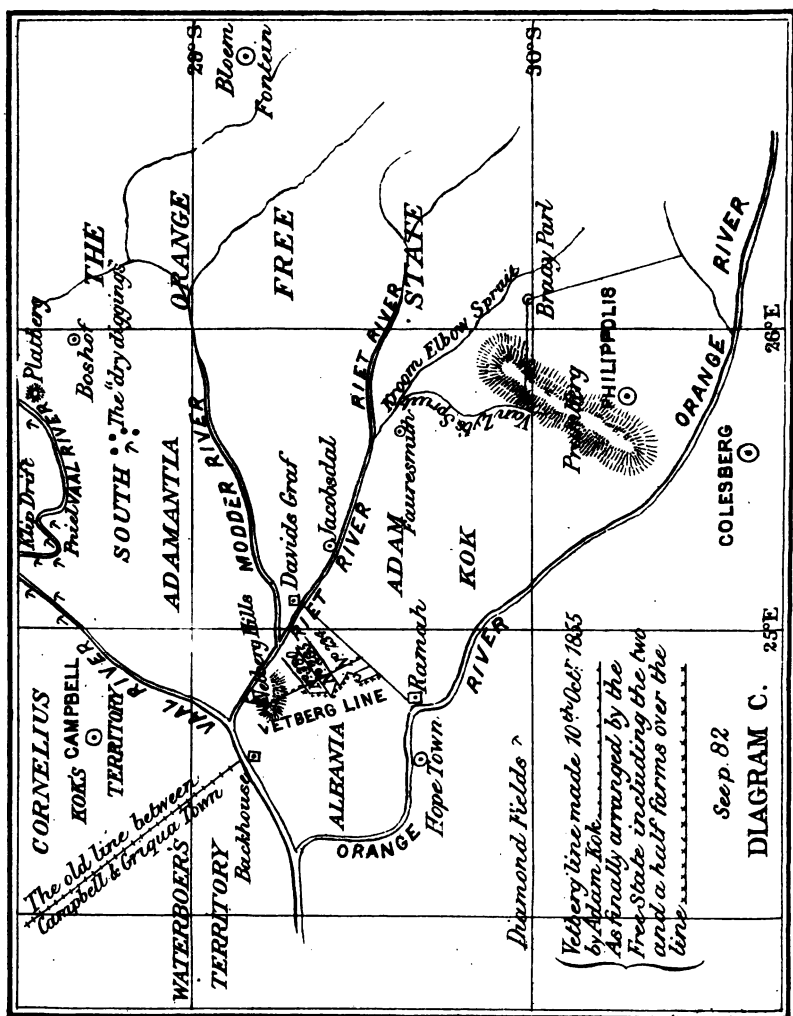
" *Vetberg*, 10th October, 1855.

* "The boundary line fixed between Captain N. Waterboer and Captain C. Kok by A. Kok, Captain, as an impartial, with leave of J. Bloem; Captain, who has given his consent in writing to be satisfied as A. Kok, Captain, shall fix the line. The line is as follows :—

"Commencing at the confluence of the Riet and Vaal rivers, up along the Riet River, to a drift between the Klip and Saltpan drifts ;

* *Vide* p. 28, Annexures, Blue Book, O.F.S., "Minutes of Meeting at Nooitgedacht, 1870," and pp. 19 and 69, Capetown Blue Book, "Correspondence between H.M. High Commissioner and the President of the O.F.S., 1871."





from there to a Koppje; and from the Koppje a straight line to a Vaal ridge; and from there to a detached hill of Vetberg, to the outside hill, and with a straight line in the pan of Rabak, over the sand rise (bult) to the Kalkleege, which runs to the pan; from there with straight line between the Klein Karree and Zout Fontein, to the Koppje on which a beacon is placed, to the boundary line of A. Kok, Captain.

"It is further fixed for a free passage to Philippolis, and Campbell and Griqua Town, 1,500 yards at either side of the defined line, of which no portion shall be sold; and it shall be protected by the Captains of Campbell and Griqua Town.

"ADAM KOK, Captain.

"Approved by the undermentioned council:—

"PIET PIENAAR,

"PETRUS PIENAAR,

"STOFFEL VISAGIE,

"ADAM KOK."

In consequence of the Free State's gratuitous act approving the above definition, I shall henceforth consider both C. Kok and Waterboer as fully entitled to certain territory south of the Vaal—that of the latter chief comprising the tract of land between the confluence of the Vaal and Orange rivers, the Vetberg line, and part of the line from Ramah to David's Graf, as shown by the annexed diagram, C. This territory will for the future be spoken of as Albania, the name by which it has been known for some years.

A curious difficulty arose when the position of the Vetberg line was known. It was found that two and a half farms belonging to Free State farmers fell within Waterboer's boundary, and, as these farms had been bought, and the purchase ratified by the British Government, during the existence of the Sovereignty, the Free State authorities at once communicated with the then Governor of the Cape, Sir Geo. Grey, K.C.B.

From this despatch, dated Bloemfontein, 13th June, 1856, the following extracts are taken :—

“Waterboer’s line, as thus defined, cut off several farms which had been sold by subjects of the two Koks to burghers of the Free State, and among the rest that were out of our territory, the under-mentioned two and a half farms for which land certificates had been granted by the British Resident.

“1st.—The farm Driekopspan, No. 234, situated near Ramah, granted to W. D. Jacobs, as shown by land certificate, signed H. D. Warden, and dated 10th March, 1849.

“2nd.—The farm Waterbak, No. 235, situated on the Riet River, and granted to Solomon Vermaak, as per land certificate, dated 16th March, 1849, and signed H. D. Warden.

“3rd.—The farm Scholtzfontein, No. 380, situated between the Riet and Orange rivers, and granted to S. B. L. Swanepoel, by land certificate, dated 1st March, 1852, and signed H. D. Warden ; of this last about the half reverts to Waterboer.

“It may be proper to mention that these farms have all been sold to second parties, at the least once, at average prices.

... “By article 4 of the Convention entered into with H. M. Special Commissioner, Sir G. Clerk, it is agreed that all former British subjects shall be considered to be guaranteed in the possession of their estates by the New Orange River Government.

“If the Volksraad should consent to the proposed line, owners of the farms abovementioned would have a claim on this Government for compensation. . . .

“In the event, on the other hand, of the Raad refusing to accept the line, this Government will have to protect the possession of these farms, which may give rise to serious disputes, if not to hostilities.* . . .”

Nothing could more forcibly illustrate the extreme anxiety of the Free State to act justly, and avoid encroaching upon Griqua territory, than the above correspondence ; nor could anything be found more

* *Vide* p. 53, Annexures, Blue Book, O.F.S. “Minutes of Meeting at Nooitgedacht, 1870.”

strikingly to confound and refute the present Colonial Government and its mendacious assertions as to its motives in seizing the diamond fields being to support Waterboer against Free State encroachments!

Instead of temporising with so utterly insignificant a rogue as the land thief, Waterboer, the Free State authorities would have been entirely justified in refusing to hear his impudent claims, and in driving him back to his home across the Vaal; indeed, it would have been the wisest, most just, course they could have adopted. They would have followed the British policy in that matter, and would certainly have prevented all fear of future trouble with Waterboer about land boundaries.

The following is the only reply the Free State Government ever received to its despatch just quoted:—

“Government House, Cape Town, 29th Nov., 1856.

* “Sir,—I am instructed by H. E. the High Commissioner to acquaint you, for the information of his Honour, the President, that, owing to some inadvertency of his Honour's letters of the 9th and 13th June last,—that of former date bearing congratulations upon the happy termination of the late war, the latter date relative to the *satisfactory settlement of the boundary lines in the Griqua territory*,—they did not reach H. E. until the 28th of the present on the, thus preventing him from taking them into his earlier consideration.

“I have the honour to be, Sir, yours, &c.,

“(A true copy.) (Signed) “FRED TRAVERS, Captain, R.A.

“F. K. HÖHNE. ()

“*Government Secretary.* “*Secretary to High Commissioner.*”

From this reply it is quite evident that Sir George Grey rightly left the Free State to settle its own affairs, and acted in strict accordance with the stipu-

* *Vide* p. 55, Blue Book, O.F.S., “Minutes of Meeting at Nootgedacht, 1870.”

lations in the treaty or convention declaring its entire freedom and independence. The Free State Government having received the above tacit consent to its policy, maintained the Vetberg line as defined by Adam Kok, but altered so as to leave out of the cunning Mr. Waterboer's newly discovered and now admitted territory of Albania the two and a half farms owned by right of British land certificates. From that day until the seizure of the diamond fields—some fifteen years!—this arrangement had every force of law, was generally recognized, and the owners of the respective farms remained in the unquestioned and undisturbed possession to which they were so strongly and undoubtedly entitled—firstly by the unreserved guarantee of the British Sovereignty Government, and then by that of the Free State.

EXTENSION OF THE FREE STATE,

CHAPTER V.

SALE OF THE CAMPBELL LANDS AND REMAINING PORTIONS
OF ADAM KOK'S TERRITORY TO THE ORANGE FREE
STATE; HEGIRA OF THE SOUTHERN GRIQUAS.

ABDICATION OF CORNELIUS KOK IN FAVOUR OF HIS NEPHEW, ADAM.—
DEATH OF CORNELIUS.—WATERBOER'S FRAUDULENT CLAIMS.—
HIS FAILURE TO OBTAIN ANY PORTION OF THE CAMPBELL LANDS
BY EXCHANGING PART OF ALBANIA.—MR. H. HARVEY'S POWER
OF ATTORNEY FROM ADAM KOK, AND SALE OF THAT CHIEF'S
REMAINING TERRITORY AND THE CAMPBELL LANDS TO THE PRES-
IDENT OF THE FREE STATE.—DEED OF SALE.—WATERBOER'S
TRICKY POLICY TO OBTAIN PART OF THE SOLD GROUND.—ADAM
KOK'S COMPLICITY.—COMMENT THEREON.—A SUMMARY OF THE
VARIOUS TERRITORIAL RIGHTS IN ADAMANTIA.

Although Adam Kok's boundaries were faithfully respected for a number of years by the Free State, yet, day by day, his subjects sold and alienated away from the tribe for ever, to the industrious *boers*, lands and farms they were themselves too lazy to utilize. In this way it came to pass that within eight years after the Convention (quoted in *extenso*, Chapter III.) the Griquas of Philippolis had disposed of almost all that fine tract of country originally secured to them as the "inalienable" territory by Sir P. Maitland, and now, in 1861, sought to sell what remained, and betake themselves to "other fields and pastures new ;"

the British Government having (it appears) promised Adam Kok a location in some waste lands—known as No Man's Land—on the western frontier of Natal.

In the meanwhile, however, an event had transpired which, unnoticed and unimportant enough at the time, has now become a matter of considerable interest, and requires to be mentioned by us in its proper chronological order before dealing with the hegira.

About the end of the year 1857 (according to Hendrik Hendrikse's statement already referred to in Chapters II. and IV.), Cornelius Kok being then very old and feeble, and feeling unable to continue the proper government of his people, called together a meeting of them, which Adam Kok, the principal Griqua chief, had also been induced to attend from Philippolis. At this meeting Cornelius Kok, by the consent of his subjects, formally abdicated his position as the chief and captain of Campbell, and made over the future rule and government to his rightful heir and successor, Captain Adam Kok, his nephew,—from whose father he had received the dignity at the same time the late Andries Waterboër was appointed to Griqua Town.

Adam Kok accepted the responsibility and authority of the chieftainship of the Campbell lands; but, as he resided so far away, at Philippolis, appointed Mr. John Bartlett, the son of a former missionary at Campbell, as vice or provisional captain in his place.

Shortly afterwards, early in 1858, old Cornelius Kok died, and at his death-bed the above and other political matters were further arranged.

Waterboër seems to have been personally present, with some of his people and councillors, at both events.

Not at that time, nor for years after, did he raise any objection to the full right of Cornelius Kok to bequeath, retire, and relinquish in favour of Adam Kok; neither did he question the latter's complete and hereditary right to inherit and accept. Indeed, there is ample evidence to prove that he thoroughly endorsed everything that was then executed and arranged.

Yet now both him and his backers, since diamonds have been discovered within the territory commonly assigned to the late Cornelius Kok, have the brazen effrontery and hardihood to deny and dispute all those facts to which he had formerly agreed; to challenge not only Adam Kok's right of succession, but to declare that Cornelius was not an independent chief, but *Waterboer's* petty subordinate!—that the Campbell lands, in fact, belonged to him, Waterboer; that *he*, and not Dam Kok, had appointed Cornelius to the chieftainship of Campbell; that, upon the latter's death, the land and its Suzerainship should have reverted to him; together with many other preposterous claims and assertions never mentioned *at the time, never heard of before*, and which we possess a voluminous mass of evidence to refute, by and by, at the proper place, when we come to deal with the Anglo-Griqua claim to, and forcible seizure of, the diamond fields.

After exercising undisputed authority over the Campbell land Grikwas for upwards of four years, Adam Kok gave up his right as their territorial chief, and the exodus of the Grikwas of Philippolis occurred.

The way in which Adam Kok surrendered his right to, and rule over, the Campbell lands is highly

significant, and Waterboer, on starting his present impudent claim to them, must surely have trusted to the chapter of accidents for the oblivion thereof; but of this hereafter.

At the close of 1861, having already arranged for the sale of all his remaining land, known as the "open," or Government land of the Griquas of Philippolis, Adam Kok visited his northern brethren over the Vaal, to take farewell, to enrol all who preferred to accompany him to the new home in No Man's Land, and especially to settle the future of the Campbell lands. To arrange the latter matter a large meeting was held at Vetberg (where the line of 1855 had been made) between Adam Kok and his councillors and Waterboer and his councillors. What was the object of that meeting? Surely the present claimant to Adamantia must forget! Why, neither more nor less than to exchange those very Campbell lands (which Waterboer now says are his) for Albania! But as only dry ground, without streams or fountains, was offered in that sterile region, Adam Kok peremptorily broke off the negotiations, *refused to exchange* any part or portion of the better watered Campbell grounds for that sandy desert, and at once, on the spot, ordered to be written out and given to all the late Cornelius Kok's people title deeds of their lands and estates, with full right to sell and dispose of them to whom they thought fit, Free State farmers or others. The open, or Government land, such portions of the territory as were neither let out in farms nor actually occupied, he eventually sold to the Free State Government himself, together with his territory south of the Vaal. What, then, became of

Waterboer's right and title? And how was it that at the time he never even made so much as a protest against this wholesale alienation and disposal of his alleged lands? Echo alone replies.

After this event Adam Kok, by the medium of his agent, Mr. Henry Harvey, of Philippolis, effected the sales referred to.

The legality of these sales, or, rather, a part of them, having been subsequently questioned, and the whole of them being now, for the first time, disputed by Waterboer, it is necessary to quote *in extenso* whatever official documents exist in connection with the original transactions; and that which follows possesses peculiar importance, as Waterboer's British aiders and abettors have taken up the cry that Mr. Harvey sold without holding sufficient authority.

POWER OF ATTORNEY.

[*Translation.*]

* "I, the undersigned, Adam Kok, Chief of the Griquas of the town and district of Philippolis, declare hereby, by advice and consent of my Council, who have also signed this, to nominate and appoint, and in the best way to empower, Mr. Henry Harvey, at the present time my general agent, with power of substitution, special as my agent, empowered, and to represent me in all cases required to be done and executed in my beforementioned capacity as Chief; to attend inspection of grounds in said territory; and to do what is required of me to be done in my before mentioned capacity; to settle all disputes, if possible, that may arise with reference to my boundary, and more especially to superintend and to watch the interests of the Grikwa Government, *with reference to such grounds as may be found to belong to the Grikwa Government; to sell such grounds for account of said Government, under such conditions as the before*

* *Vide* p. 2, Annexures, No. 4, Blue Book, O.F.S., "Minutes of Meeting at Nootgedacht, 1870;" and p. 49, Capetown Blue Book, No. 1.

mentioned Henry Harvey, of Paljasfontein, in the Orange Free State may deem fit; to fix, to receive, the amount of purchase money, and to grant receipt; also to grant title deeds of the same to purchaser or purchasers of any grounds, or portion thereof, belonging to the said Government; and, if required, to pass and give transfers; and, in default of such purchase moneys not being paid on such grounds or portions by the purchasers or other securities, then to take the necessary lawful steps as he may deem fit.

"Whereas I have left my land register and other office books in hands of my agent and representative, the said Henry Harvey, to be used by him when necessary, I hereby give him full power, right, and authority to produce the said books, or any thereof, to make extracts of the same, and to sign such; all of which shall be considered as if done by me in my aforesaid capacity; and the same to be recognized in all Courts, and without the same.

"Further, in my name, and on my behalf, and in my capacity as Chief of the Grikwa nation, and as representing the Grikwa Government as aforesaid, with his Honour the President of the Free State, and other officials appointed by the Free State Government or authorized, if necessary, to make arrangements to decide and do what is required with reference to land cases in the Grikwa territory, or any other case or cases in connection with the interests of the Grikwa Government, as if I, in my before mentioned capacity, being present and acting, could, might, or ought to do.

"Lastly, in all other cases not described in this power to represent my person in before mentioned capacity, and to do everything with regard to the Grikwa Government that may be required, all with promise of approbation and indemnification, according to law.

"Given under my hand, at Philippolis, this 15th day of the month August, One Thousand Eight Hundred and Sixty-one.

"ADAM KOK, Captain.

"Witnesses:

W. J. CROSSLEY, Government Secretary,
W. F. HYDE,
W. H. VAN DER HOVEN,
PIET PIENAAR,
LUKAS VAN DER WESTHUIZEN,
WILLEM BEZUIDENHEUD."

The italicized passages in the above document are

most sweeping and unreserved. For my part, with such a power, it is not what Mr. Harvey *could* sell that I should be troubled to ascertain, but what he *could not*. *En abrégé*, it is clear that his authority was amply sufficient to sell every inch of ground then remaining to the Griqua Government; and that he did.

It is important to remember that the above absolute power of attorney was conferred upon Mr. Harvey for the express purpose of selling the grounds then remaining to the chief, Adam Kok, and whose Government we have seen included the Campbell-lands 'since the abdication or retirement of Cornelius Kok in 1857. It is also a striking fact that not for several years before nor several years after the sales by Mr. Harvey does anything at all appear concerning Waterboer, or any interest whatever of Waterboer's in that connection. Nothing can be found to show that he was ever to be seen or heard of at the very time he would most assuredly have been making a great noise in the land had he only then thought of his wrong, and how he was being plundered by the actual sale of his territory, under his very nose, to the abhorred Free State *boers* and burghers!

Here follows the agreement or deed of sale between the two contracting powers:—

[*Translation.*]

ANNEXURE, No. 16.

DEED.

"* The undersigned, Marthinus Wessel Pretorius, State President of the Orange Free State, acting in this for and on behalf of the said State:

* *Vide* p. 25, Annexures, Blue Book, O.F.S., "Minutes of Meeting at Nooitgedacht, 1870;" and p. 67, Capetown Blue Book, No 1.

"Declares to have purchased, and the co-signature, **Henry Harvey**, landed proprietor, formerly residing at Paljaasfontein, at present at Philippolis as general agent, and *specially empowered* by Adam Kok, Chief of the Griquas of the town and district Philippolis, with advice and consent of his Councillors by deed, dated 15th August, 1861, of which a copy is herewith annexed, *to make the hereinafter mentioned sale :*

"Declares to have sold all the open ground which shall be found to belong to the Griqua Government, as well as all the right and title to the Griqua land formerly possessed by Adam Kok and his people, *likewise that of the late Cornelius Kok*; and which possession and right were subsequently confirmed by treaty, dated 5th February, 1846, between his Excellency Sir P. Maitland, Governor-General of the British possessions in South Africa, and Captain Adam Kok, Chief of the Philippolis Griquas, for himself and for the Griquas aforementioned.

"By open ground is understood all lands which up to this date have not become the property of separate individuals.

"The purchase amount of all the herein before mentioned right and title, as also the transfer of the ownership of before mentioned open grounds, is fixed at the sum of £4,000, say Four Thousand Pounds Sterling.

"His Honour, the purchaser, declares, however, that the purchase and sale must be ratified by the Honourable the Volksraad of the Orange Free State, and will lay this document for approval before the Raad, at its next following session in February.

"It is further stipulated that the purchase amount (the sum of Four Thousand Pounds Sterling) shall be paid by the Government of the Orange Free State in four instalments.

"The first instalment, the sum of One Thousand Pounds Sterling, so soon as the purchase shall have been approved of by the Volksraad of the Orange Free State and transfer shall have been given; and the following three years, every year one instalment, the like sum of One Thousand Pounds Sterling yearly, with the interest at six per cent.

"And the seller q.q. declares and promises that neither he, nor in his behalf, nor by his principal, from this day, the Twenty-sixth December, 1861, will any more ground be given out or sold until the final approval or rejection of this purchase and sale by the Honourable the Volksraad of the Orange Free State, in the first coming session in February.

"In case the said Volksraad may not be willing to confirm this purchase and sale, his Honour, the purchaser, declares that the purchase shall be considered as not having taken place, with which the seller q.q. agrees.

"It is further stipulated, with desire of the seller, that all farms inspected by Captain Adam Kok and his Commission, and of which inspection a written description of the boundaries shall have been signed by Adam Kok and the members of his Commission, shall not again be inspected.

"Thus done and passed in duplicate, and for the fulfilment of which we bind our persons and property, in presence of the undersigned witnesses, at Philippolis, this Twenty-sixth day of December, Eighteen Hundred and Sixty-one.

"M. W. PRETORIUS,

"State President.

"H. HARVEY, q.q.,

"ADAM KOK, Kaptijn.

"Witnesses :

E. VAN OLDEN.

W. J. CROSSLEY."

The terms and stipulations of the above deed are clear and distinct. It is pointed out that Mr. Harvey was specially empowered to make those sales; that he did so; and that the open grounds of the late Cornelius Kok were "likewise" included. Unless, therefore, exception were taken at the time, the terms of the deed became law. Both Adam Kok and the Free State Volksraad sanctioned and endorsed the sale as therein described; the Government of the Free State paid the purchase-money, £4,000; and Adam Kok received it, together with further large sums, making altogether a total of nearly £8,000 for certain private lands which were also disposed of at the same time. Immediately afterwards Adam Kok and his Griquas packed up, and went off to No-man's-land; but, with the usual cunning of his race, and the peculiar aptitude

they have ever shown to fraudulent dealing in land transactions, he seems to have given to Waterboer certain territory subsequent to its sale, and moreover, *after he had left the country and pocketed the money*, to have denied that he had sold the Campbell lands! At all events, although it was nine years before Waterboer distinctly disputed the sales just described, and Adam Kok's right to make them, it is quite certain that, not long after them, he had commenced appropriating some of the sold territory of the late Cornelius Kok, and that Adam Kok simultaneously began to deny that he had ever sold the Campbell lands!

After the departure of the Philippolis Griquas the territory of Waterboer remained as the only Griqua land, and it laid entirely to the west of the Vetberg line and the original line of demarcation made by old Dam Kok between Campbell and Griqua Town, the only Griqua ground South of the Vaal being Albania. Moreover, although indefinite claims may have been advanced (according to the tactics which had proved so successful in producing the Vetberg line), and Waterboer may have encroached upon the Campbell lands, it is quite certain that, subsequent to Adam Kok's last sale, he never, by any means or ways whatsoever, advanced a single claim to that large tract of country on the south bank of the Vaal which we have named South Adamantia, and which has for so many years been part and parcel of the Orange Free State, until the 1st September, 1863, when, as the Free State authorities believe, he was instigated thereto by a certain Mr. David Arnot, and, in 1870, the British and Colonial Governments took up this claim!

At the period to which we have arrived—1861-2—

but little was known of the country north of the Vaal; indeed, it seems very probable that the Free State Government had but a vague idea as to the nature and extent of the territory to which it had become entitled by its purchase of the Campbell grounds; whilst it is quite certain that Mr. Harvey (as representing the chief, Adam Kok) was ignorant as to the very whereabouts of the lands he had been instructed to sell beyond the river.

Taking advantage of this, the cunning half-breeds began to simulate an occupation (for they never really occupied even the original districts around Griqua Town), and pretend an ownership of portions of the Campbell lands. Hearing of these proceedings, the President of the Free State issued a proclamation,* bearing date September 24th, 1862, asserting his purchase, "for and on behalf of the Orange Free State Government, of all the right and title of the said Cornelius Kok on this as well as the other side of the Vaal River;" and, warning all persons neither to barter, purchase, nor take possession of any lands within those limits, asserted the right and claim of his Government. This proclamation appeared in the *Government Gazette* of the Orange Free State, No. 290, October 8th, 1862.

And now, having pocketed the money, and being safely out of the country, Adam Kok denied the sale!

In the *Friend of the Free State*, 26th December, 1862, appears a notice† from that chief, in which he declares his "desire to have it made known that the

* *Vide* p. 27, Annexures, Blue Book, O.F.S., "Minutes of Meeting at Nooitgedacht, 1870."

† First published in the *Colesberg Advertiser*, 23rd December, 1862.

right sold for my account by Mr. Henry Harvey *confines itself to the south bank of the Vaal River*, and in no respect applies to territory north of the Vaal River."

This document is now produced by Waterboer in support of his present claim to *all* the grounds which were bought by the Free State in 1861, both north and south of the Vaal!

Evidently the Griqua's mind is not critical. He and his Anglo-Saxon colleagues most especially desire to make out a claim to *South Adamantia* (where are the famous "dry diggings," the only payable places on the diamond fields); and here they produce as evidence on their side a document which, even supposing its statements were true, cuts both ways, and, for them, the worst way too! Moreover, in the one case it declares and testifies to the sale of the lands south of the Vaal—thus contradicting Waterboer's major claim,—and in the other, it very materially weakens the minor, by the generally admitted maxim that where falsehood once appears, falsehood permeates the whole evidence. But even taking the least unfavourable view of it (1) how does the alleged fact that Adam Kok's sale of ground was confined to the south of the Vaal prove for, or give Waterboer any right to that to the north? (2) and if, for the sake of argument, it be admitted that Adam Kok's unsupported assertion invalidates the Free State's claim to the Campbell lands, how does it give Waterboer a right to the lands to the south of the Vaal? The *onus probandi* rests with the plaintiffs'; negative proof does not advance their case; it is not at all necessary for them to discuss the merits of the Free State constitution, but very much so for them to prove their own claims. I should like to hear Mr. Southey (the Cape

Town Colonial Secretary, and, apparently, Waterboer's great advocate and ally) reply to the above two propositions.

Mr. Harvey's power of attorney, and the deed of sale already quoted, would satisfy any just mind as to the right and legality of the sales effected; but, as Waterboer and Co. now dispute them *in toto*, we must, *par force*, produce and enter into the analysis and examination of the whole mass of evidence existing thereon.

Before, however, proceeding to do so, and probably cumbering and muddling the case (as I believe that sufficient proof has already been given to satisfy any unprejudiced mind that Adam Kok legally sold, and the Free State rightly purchased, both the open grounds of that chief and the late Cornelius Kok), I will as succinctly as possible sum up what I have done, or tried to do, up to this point of my work, in the way of proving the real ownership of Adamantia—the tribes or people in whom the territorial right or sovereignty really exists. Moreover, in law, by law civil and international, the same state still prevails; though, for a time, perhaps, brute force has usurped the rule and possession of the country, and, in fact, an *interregnum* exists—the mongrel institutions started by the Colonial Government of the Cape Colony, professing to be half Colonial, half Griqua, being illegal in every sense and phase, transitory, and doomed to early dissolution, when the rightful Free State authority should return.

SUMMARY OF TERRITORIAL RIGHTS IN ADAMANTIA.

1. It has been conclusively shown that the people and the Government of the Orange Free State at

various periods purchased or succeeded to all lands south of the Vaal, north of the Orange River, and west of Basuto-land—South Adamantia, in fact (1) By succession to the rights and territories formally made over by the British Government at its abandonment of the Orange River Sovereignty; (2) by the peaceful and undisputed occupation of waste-lands; (3) by the purchase of occupied lands from the supposed owners, Bushmen and the Bushmen chiefs, David Dantzer, Mandor, Kousopp, Kogleman, and others; (4) by the purchase of all south Griqua land (except Albania only) from the people, and from the chiefs, Cornelius Kok and Adam Kok.

2. By the extreme moderation and generosity of the Free State, Waterboer was permitted to claim the territory known as Albania; and his claim was legalized and established to the same solely by the consent and action of the Free State Government in the matter of its adoption and recognition of the Vetberg line.

3. The Orange Free State, by its purchase of all open ground formerly under the chief, Cornelius Kok, north of the Vaal River, became the lawful possessor of all the Campbell lands except such portions as may be in the actual possession and occupation, as farms, of Grikwas—without prejudice to the claims, if any, other tribes or people may have as against the late Cornelius Kok and Grikwas.

4. Such portions of the Campbell lands as are in the absolute possession of Griqua owners, squatters, or farmers, are exempt from both Free State authority and that of Waterboer; the territorial right or sovereignty of such lands being either in abeyance or unclaimed by the only apparent heir, the paramount chief of the Koranas, Massau Rijt Taaibosch.

5. Griqua land under Waterboer comprises all that extensive tract of territory, the original districts of Griqua Town, north of the Vaal and Orange rivers, bounded on the west by the Langeberg hills, on the north by the line separating the Batlaping Kafirs from the Grikwas, and on the east by the original line made by old Dam Kok between Campbell and Griqua Town—without prejudice to the claims, if any, other tribes or people may have as against the Grikwas themselves.

6. The country east of the Harts River, along the northern bank of the Vaal, is, and has been for nearly a century, in possession of Batlaping Kafirs, who acknowledge only the Korana Chief, Massau, as their territorial head, from whose ancestor they obtained permission to settle upon those lands, although now, for the first time, Waterboer claims them, and is supported by the British and Cape Colony governments.

7. That the Korana Chief, Massau Rijt Taaibosch, has advanced the only rightful territorial and hereditary claim to all Griqua land and the Campbell lands—in fact, to all of Adamantia north of the Vaal—seems indisputable; but, at the same time, he does not seem to assert his claim with any further intention than to preserve inviolate the territory of Mamusa, or that at the present time actually occupied by himself and people, as well as by his allies or feudatories, the Batlaping Kafirs about the Harts River. He does not seek to resume the territorial rights over Griqua land, which appear to have been abandoned by his predecessors for so long a period as over fifty years, and which rights, indeed, may well be argued to have expired simply by effluxion of time; for although,

as I observed in commenting upon the original settlement of the Griqua squatters in Chapter II., the simple fact that non-interference with settlers can hardly give them territorial rights seems plain, yet a very different phase is put upon the matter when these settlers are not only left in undisturbed possession for half a century, but are even allowed to sell and alienate large tracts of the country to second and third parties, as much foreigners to the land as were they upon their first arrival, without any protest or remonstrance from the original owners. But, then again, although this argument applies very forcibly to the former lands and acts of Adam and Cornelius Kok, it cannot be urged in favour of Waterboer, for neither he nor his people ever sold any of their ground to whites; and, should he seek to apply the argument, it leaves the Korana Chief the reply that, had Waterboer sold or attempted to sell any portion of Griqua land, it would have been protested against and disallowed. This; the certainty that they have neither ceded to Waterboer nor lost any portion of their original ground by conquest; and the fact that the Batlaping squatters of an even earlier date than the Grikas still acknowledge their territorial supremacy, seem to prove that the Koranas have, after all, the best claim to sovereign right in Griqua land. It is an abstruse point, which I leave to the international lawyers, though, for my part, I rather incline to the side of the Koranas. Fortunately for Waterboer they seem quite willing to let him alone if he will only leave them in peace—and this I would strongly advise him to do while there is yet time, and before he is abandoned by the English and Colonial Governments—as I venture to prophecy he will be—to the tender

mercies of both the Orange Free State and the Transvaal or South African Republic, the Kafirs and Koranas he seeks to wrong and rob. I know that, in May, 1872, just before I left the country, great excitement prevailed amongst the latter tribes, and that nothing but the presence of the British authorities and mounted police at the diamond fields preserved Waterboer and his few dissipated slothful followers from an active demonstration of their wrath. The Batlaping and Korana allies could, with the greatest ease, put several thousand stalwart, well-armed men into the field, and he could not muster as many hundreds. Moreover, the quality of his men, in my opinion, is not nearly equal to that of his opponents—every man of whom could muster with a good gun, thanks to the unlimited supply sold to natives on the diamond fields. Then every man of the allied tribes is expert in the use of the *assegai*, a weapon unknown amongst the Griquas, but not to be despised even by European troops, as our Kafir wars have shown, if once it comes to fairly close quarters. In three days Waterboer and his people would be exterminated, root and branch.

The diamond fields will not last for ever—in all probability, but for few years. When the diamonds are finished, the end of the British protectorate will not be far off, and the most transitory of populations—a digging community—will be on the way to “other fields and pastures new.” Waterboer will be left to the society of his loving neighbours.

CHAPTER VI.

CONCERNING WATERBOER'S AND THE FREE STATE'S CLAIMS
TO THE CAMPBELL LANDS, 1863—70, INCLUDING THE
"MEETING AT NOOITGEDACHT" OF THE GRIQUA AND
FREE STATE GOVERNMENTS.

WATERBOER'S FIRST DEFINITE CLAIM TO TERRITORY OF THE LATE CORNELIUS KOK: ONE DAVID ARNOT, THE INSTIGATOR.—EFFORTS AT ARBITRATION BY THE FREE STATE, WHICH FAIL THROUGH WATERBOER'S ARROGANCE AND PRESUMPTION.—THE DISCOVERY OF DIAMONDS IN THE DISPUTED TERRITORY; IT INDUCES THE CAPE GOVERNMENT TO SUPPORT WATERBOER'S CLAIMS.—WATERBOER AND CO'S SCHEME TO CHEAT THE ORANGE FREE STATE OUT OF THE DIAMOND FIELDS, BY PRETENDING THAT THE LATE CHIEF, CORNELIUS KOK, WHO DISPOSED OF THOSE LANDS, WAS NOT AN INDEPENDENT CHIEF, BUT WATERBOER'S SUBORDINATE! —THE MEETING AT NOOITGEDACHT.—ANALYSIS OF WATERBOER'S CASE: THE EVIDENCE OF T. SINDEN.—THE MEETING BROKEN UP BY WATERBOER'S INSOLENT AND INTENTIONAL BEHAVIOUR.

Towards the close of the year 1863, Waterboer for the first time began to put forth a definite claim to the former territory of the late Cornelius Kok. This will be best described by extracts from official documents, as, in order to explain the cause of this sudden boldness upon the part of the astute Griqua, it becomes necessary to bring a charge against the Mr. Arnot referred to in our last chapter.

In a despatch dated "Government House, Bloem-

fontein, 12th November, 1863," Mr. J. J. Venter, Acting President of the Orange Free State, writes to his Excellency Sir Philip Wodehouse, K.C.B., Governor-General, &c., of the Cape Colony:—

*"SIR,—I am reluctantly compelled to trouble your Excellency once more upon the subject of our border relations, not so much with a view to enlist your Excellency's sympathy and co-operation in vindicating our rights over against our crafty neighbour, as to solicit your Excellency's interference in preventing a British subject, influenced by self-interested and sinister motives, from using his influence to promote the unjust designs and acts of the Griqua Chief, Nicolas Waterboer."

The despatch then mentions the sale by Adam Kok of his own lands and those of the late Cornelius Kok, including territory south of the Vaal, in the Free State, "inhabited by farmers who hold their titles from the British (Sovereignty) Government."

"From the enclosed copy of an advertisement appearing in the *Colesberg Advertiser*,† your Excellency will perceive that the chief, Waterboer, has openly declared his supremacy over the whole of the country which formerly belonged to Cornelius Kok. . . .

"To this act of aggression I do not hesitate to declare that he (the Chief) has been urged by a certain Mr. David Arnot, of Colesberg, the same individual whom he announces to have appointed his secretary, agent, and representative; and I take the liberty to request that your Excellency will be pleased to take the necessary steps to prevent the said Arnot's undue interference in a matter which, if persisted in, must lead to hostilities between the Griqua nation and this Government."

By comparing dates (the sale having been effected on the 26th December, 1861, and the first claim by Waterboer to the land sold being dated 1st September, 1863), we find that he had taken almost two years to

* *Vide* p. 12, Capetown Blue Book, No. 1.

† See *Colesberg Advertiser*, 1st September, 1863.

discover how he had been wronged, and to invent or define that wrong, and then, too, under Mr. David Arnot's auspices! The belief in this latter's leading share in the conspiracy of Waterboer and others to defraud the Orange Free State of lands (Cornelius Kok's) bought from the Philippolis Chief, Adam Kok, is quite universal throughout the State and the Cape Colony.

Acting President Venter issued a proclamation against the impudent notice or advertisement published by Waterboer, Arnot & Co., but nothing seems to have ensued from his application to the Governor of the Colony; indeed, it seems difficult to perceive how the latter could have interfered with Waterboer's *amédamnée* and his acts as agent or paid *employé*.

Respecting the notice purporting to be from Adam Kok, declaring his sale of Cornelius Kok's lands to be confined to the south of the Vaal, quoted in Chapter V., its origin is attributed by most Free Staters to Mr. Arnot. And it is a significant fact that upon the copy sent by Messrs. Waterboer and Arnot, in 1870, to the Cape Town Government, when seeking its aid to obtain the diamond fields, appears a codicil from the editor of the *Colesberg Advertiser* :—

"I certify the above a true copy of notice as inserted in the above paper *for behalf and account of* the Chief, Adam Kok, now of No Man's Land—*Colesberg, 27th May, 1863.*"*

Now, this certificate proves that the notice was inserted "*for behalf and account of*" (not *by*) "the Chief, Adam Kok;"—who by? By Mr. Arnot?

How is it that the certificate comes to be dated at

* *Vide* p. 14, Capetown Blue Book, No. 1.

Colesberg just about the time Mr. Arnot left there to enter into Waterboer's employment, but just *five months later* than the notice itself appeared, that having been printed in the *Colesberg Advertiser* of the 23rd December, 1862?

This seems strong, though circumstantial, evidence in corroboration of Acting President Venter's charge against Mr. David Arnot—who, be it remarked, having formerly been in the service of Adam Kok, would be a valuable coadjutor for Waterboer, by reason of the knowledge he would have of all the irregular acts and sales, and, in fact, of all the affairs of both Adam and Cornelius Kok.

As if anything more were required to illustrate the inordinate, almost morbid, anxiety of the Orange Free State to deal justly with the artful, cheating Griqua, the Government actually condescended to give heed to Waterboer's fraudulent and ambiguous claims, now, subsequent to the sale of 26th December, 1861, gradually and insidiously put forth. The President and Volksraad even went so far as to refer the whole question of their title to the Campbell lands to arbitration! On the 12th February, 1864, the services of Sir Philip Wodehouse, Governor of the Cape Colony, were sought and obtained as arbitrator, Attorney-General Porter kindly giving his aid by drawing up the deed of submission.*

This mild and excessively forbearing policy was pursued even after a land commission appointed to investigate Waterboer's claims in 1863 had very clearly and satisfactorily proved them to be utterly unfounded!

* *Vide* p.p. 17, 136, Capetown Blue Book, No. 1.

Will it be credited that this insignificant leader of a couple of hundred semi-savages had the astounding audacity to refuse putting his signature to the deed of submission, and insisted that the arbitration should be extended to all the former lands of the late Cornelius Kok situate on the south side of the Vaal River!

Naturally enough, even tame and yielding as was its policy, the Free State could not consent to arbitrate about what had mostly been part and parcel of itself for ten years—ever since the abandonment of the Sovereignty in fact. So the deed of submission was never executed.

As the report of the Free State Commission of 1863 contains very much the same sort of evidence as the minutes of the meeting between Waterboer and his Councillors, and the President and Government of the Free State, at Nooitgedacht, in 1870, upon the same subject—the dispute regarding the Campbell lands—we will notice both together; especially as the two reports are published in one form, and are intimately related.

* From a despatch of President Brand to Lieutenant-General Hay, dated 24th September, 1870, it appears that:—

“On the 20th June, 1867, the Free State Volksraad, (or Parliament), resolved, on the motion of Mr. Serfontyn, seconded by Mr. Nauhaus:—‘Whereas it has appeared to the Raad, from oral and written declarations, that no doubt exists that the Campbell lands belong to the Free State Government by virtue of a deed of sale from Mr. Harvey, as the agent of Captain Adam Kok, the Raad resolves to instruct the State President to urge upon Captain Waterboer, if he desires to do so, to call in the arbitration of

* *Vide* p. 17, Capetown Blue Book, No. 1.

his Excellency (the Governor of the Cape) without delay, at most three or four months after he shall have received notice of this resolution.' ”

This seems almost incredible after previous events, and, considering the fact that, had Waterboer dared to oppose the occupation of the Campbell lands by Free State burghers, a very small *commando* of the latter would have very effectually disposed of both him and the question finally and for ever !

“ The Raad further resolves, in case Captain Waterboer does not accept the arbitration of the Governor, to empower the State President to proclaim the before-mentioned grounds, and to appoint land commissions to cause the ground to be inspected, and then to act according to circumstances.

“ And further, on the motion of Mr. Nauhaus, seconded by Mr. F. de Villiers :—‘ With reference to the ground situate on the Free State side of the Vaal River, the Raad declares that all lands to which certificates were issued at the time of the British Government—(Sovereignty)—belong to the Orange Free State ; and further, the Raad recognizes no other than the so-called Vet-berg line.’ ”

From a further statement in the same despatch it appears that on the 31st March, 1870, Waterboer

“ At last consented to restrict the arbitration to the Campbell lands, *i.e.*, the ground situate to the north of the Vaal River, and the deed of submission, referring this question to the arbitration of Sir P. E. Wodehouse, was duly signed and executed by our Government and the Chief, Waterboer ; but owing to the departure of his Excellency from the Colony, nothing came of it ; and as it is manifest from the different resolutions of the Volksraad ” (referring also to that of 11th February, 1864, and others), “ that it has always been the intention of the Free State, in case the arbitration of Sir P. E. Wodehouse should not take place, to proclaim and take possession of the Campbell grounds as Free State property, and as the settlement of the question could not any longer be deferred, the Government again gave public notice of its rights, by proclamation of the 17th May, published in the *Government Gazette*

of the 25th May, 1870, copy (annexure No. 2), and translation of which I have the honour to enclose; but, before taking any further step, our Government gave the Chief, Waterboer, an opportunity to show the proofs of his alleged claim."

This constitutes yet another in the series of acts of forbearance upon the part of the Free State towards their crafty and insignificant neighbour, so extraordinary and unusual in the ordinary policy of white nations towards uncivilized, weak, helpless, and coloured races, as to be really almost incomprehensible.

Still, it was the last of a weak and resultless system. Mr. J. H. Brand (formerly a distinguished advocate and member of the Colonial House of Assembly) had become President of the Orange Free State, and, failing the proof by Waterboer of the rights he claimed, it was decided to at once proceed to survey and beacon off the Campbell lands, and enter into possession.

In the meanwhile negotiations were progressing, *sub rosa*, between Waterboer and the Colonial Government. Diamonds had been discovered in the disputed territory for a considerable distance along both banks of the Vaal River, and the possession of the country had become of infinitely more importance than before. Now, therefore, the quirks and quibbles, the claims, protests, assertions, and assumptions of the petty Griqua Chief were, for the first time, seriously and eagerly entertained and attended to by the British authorities at Cape Town;* and there is but little

* *Vide* pp. 28, 36, 47, 57, 62—7, 73, 84—6, &c., &c., Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope," London, 1871, where the eagerness of the Cape Government to adopt Waterboer's *ex parte* case and statements is clearly displayed; the object being, by proclaiming him a British subject, to annex the diamond fields to the Colony! All the correspondence, &c., above referred to will be dealt with in detail further on in this work.

doubt that Mr. David Arnot and Mr. Southey, the Colonial Secretary, came to a very good understanding.

President Brand's clear, able, and just-principled despatch of the 24th September, 1870, explaining the "opportunity" given to Waterboer to prove his claims, continues:—

"A meeting of the Executive Council of the Orange Free State Government and Captain Waterboer and his Council took place on the 18th August (1870), and following days, on the banks of the Vaal River" [at Nooitgedacht farm]. "The proofs on the part of the Orange Free State were submitted to us by Mr. Vels, attorney, and on the part of the chief, Waterboer, by his agents, Messrs. D. Arnot and Grant, attorney. After leading some evidence, Mr. Grant proposed to call *the Councillors of Waterboer, who had been present during the whole of the proceedings*, as witnesses to prove that CAPTAIN CORNELIUS KOK HAD NEVER BEEN AN INDEPENDENT CHIEF."

This is an important point to notice. The statement was then made, *for the first time*, and it forms the foundation—the very life and soul—of Waterboer's case: disprove it, and his entire claim is destroyed. But prove that Cornelius Kok were not an independent chief, then (*very indirectly though*) Waterboer has the opportunity to assert a claim thus:—"Cornelius Kok had no legal right to alienate and dispose of land to the Free State, or any one else; therefore Adam Kok could not have inherited such lands from him, nor, consequently, have had any right to sell them; whilst to me, as the only remaining Griqua chief, they should revert." But then, unfortunately for Waterboer's (or rather, Mr. Arnot's) ingenious argument, Cornelius Kok *was* an independent chief, Adam Kok *was* his

rightful successor, and *did*, at his own departure to No Man's Land, sell all remaining open ground of his late uncle to the Orange Free State—facts we have overwhelming evidence to prove, and, be it carefully observed, not one of which was ever either disputed or protested against by Waterboer at the time, nor, as we have before stated, until long after! As this statement constituted Waterboer's entire claim (as it does to this day), and as all the evidence he produced at the meeting at Nooitgedacht (and ever subsequently) was solely in support of it, we may at once proceed to analyze and examine the latter.

MEETING AT NOOITGEDACHT.

The results of this meeting were published by authority of the Orange Free State Government in Blue Book form, entitled:—

*“Minutes of a Meeting of the Executive Council of the Orange Free State, held at Nooitgedacht, on the Vaal River, on the 18th August, 1870, and following days, for the purpose of giving Captain N. Waterboer an opportunity of submitting his proof of claim to the Campbell grounds.”**

The veracity of this work has never been questioned, and it has been quoted *in extenso* by the Cape Town Blue Book, to which I have already made frequent reference as “No 1, 1871.” The extracts, evidence, and quotations upon which the following review is based are taken from its pages.

* *Vide* pp. 28 to 94, Capetown Blue Book, “Correspondence between H.M. High Commissioner and the President of the Orange Free State, 1871,” for a full copy of this book.

Waterboer being the appellant, or plaintiff, we will first proceed to examine the oral evidence submitted on his side.

1. We must premise that Waterboer's evidence was adduced in support of two arguments: 1st. That Cornelius Kok was not an independent chief, but Waterboer's under officer or subordinate. 2nd. That the territory known as his—the Campbell grounds—really belonged to Waterboer, as well as such part of South Adamantia as fell within a line from Ramah on the Orange, to Platberg on the Vaal River.

ANALYSIS OF WATERBOER'S CASE.

On the sixth day of the meeting, after the evidence on the Free State side had been produced, and Messrs. D. Arnot and Grant, on behalf of Waterboer, had handed in a number of documents (which we will examine later), "Mr. Grant wished to call Nicolas Kruger, a native councillor of Waterboer."

"Mr. Vels" (attorney for the Free State) "objects to the Councillors of Captain Waterboer being called as witnesses" (they having been present during the whole of the evidence, and being there as jury or judges, not as witnesses in their own cause.)

The question is left till to-morrow for decision, and Mr. Grant proceeds to call other witnesses.

Thomas Sinden, sworn, states:—

"I reside at Hope Town. . . . I have long known this side of the Orange River. . . . In 1853 I resided with Hans Rabie at Doornlaagte, in the Orange Free State. . . . While I was

with Rabie in 1854, I purchased the Witputs" (farm) "from cripple Jan Pienaar, a Griqua, in Adam Kok's territory. Adam Kok wrote to me that there was a dispute about the ground. . . . I then met Adam Kok; he told me then that the largest portion of it was in Captain Waterboer's territory. I then disputed it, and said, 'That is of Cornelius Kok. Hendrik du Toit told me that it was in Cornelius Kok's ground.' He asked me, 'Whether I wanted to know better than he?' Cornelius Kok is his uncle, and that he had *forfeited* (1) all right by his tumult and bloodshed. He had no ground. He said it belongs to Waterboer; there is no other chief than Waterboer who has ground. He further said, *Cornelius Kok resided at Campbell as a subject of Waterboer* (2). . . . About a month after this I rode to Cornelius Kok at Titiespan . . . and he told me he had no ground of his own, the ground belonged to Waterboer. . . . He further said that Waterboer employed him as a magistrate to decide petty cases." . . . (3)

After a little more desultory evidence, this witness then stated: "It was then all lost" (his money I presume), "and I went away."

NOTES TO ABOVE DEPOSITION:—

(1.) If Cornelius Kok ever "forfeited" territorial rights, it is admitted that he once had such, although this Waterboer illogically denies; for he could not lose that which he never possessed. Nowhere else can any such statement be met with, moreover.

(2.) As to whether Cornelius Kok was an independent chief, or a subject of Waterboer's, we shall soon prove by the mass of evidence upon the former side, in addition to such information as we have already dealt with.

(3.) *Apropos* of this dodge by which Mr. Sinden seems to have been cheated, we cannot do better than quote the following statement in Attorney-General Porter's able Memorandum so freely referred to in Chapters II., III., and IV.

"If a movement were made to arrest a boer who had flogged a native, or to dispossess a boer of a farm occupied under a sale which the Griquas cunningly disputed as having been made by an individual

*without the concurrence of their Raad, the farmers drew together into their laagers and prepared for war, while the threatened chief hurried messenger after messenger into the Colony, imploring ammunition and military aid.”** This, and many another case, and the disputed sale of the Campbell lands, are all upon a par.”

Will it be believed that Thomas Sinden was the only witness produced by Waterboer?

Afterwards the Free State Government even went so far as to sanction the production of Waterboer's own Councillors as witnesses (though really they should have been disqualified, as before stated).

But Messrs. Waterboer, Arnot, & Co. now backed out of the conference altogether!

We will show how, before proceeding with the evidence in favour of the Free State, contrary to Mr. Sinden's unsupported testimony.

Early on the morning of the seventh day of the meeting, President Brand received the following irrelevant and impertinent letter from Mr. David Arnot:

“NOOITGEDACHT (BLOEM'S),

“August 24, 1870.

“SIR,—I am authorized by the Chief, Nicolas Waterboer, with the advice and consent of his Raad, to put to you, as representing the Government of the Orange Free State, the following substantive question, *which you will be pleased to answer distinctly and pointedly!*” (Why, the Prime Minister of Great Britain would not have written as uncivilly as this unknown agent of the leader of a couple of hundred semi-savages!) “The question is this:—

“In the event of the present meeting, which professes to have for its immediate object the ascertaining of the grounds on which the Chief Waterboer claims the country (north of the Vaal River) as an integral portion of the territory belonging to the nations of

* *Vide* p. 9, Blue Book, “Orange River Correspondence, 1851—4.”

Griqua-land West (1) being proceeded with, and brought to a close (*the evidence of the members of the Raad being admitted*), will the Government of the Orange Free State promise and undertake to submit the matters and boundaries in dispute SOUTH OF THAT RIVER (2) to the arbitration and final decision of the successor of Sir P. E. Wodehouse, in his capacity as Governor of the Cape Colony and High Commissioner, and to proceed with such arbitration as speedily as the said Governor, &c., can make it convenient, after his arrival, to enter upon the work.

“The Chief and Council will feel obliged by an early reply.

(Signed)

“DAVID ARNOT,

“*Griqua Representative.*

“His Honour J. H. BRAND, Esq.

“*President of the Orange Free State.*”

The above epistle is evidently the invention of Messrs. Arnot and Grant, and not of the uneducated Griqua. Mr. Arnot may be here credited with the invention of the term (Note 1) “*Griqua land West.*” It would be interesting to know what connection or understanding at this time existed between the firm of Waterboer, Arnot, & Co. and Mr. Southey, the Colonial Secretary at Capetown.

There is but little doubt that a deep-laid scheme was already in progress. Mr. Arnot's confident tone seems significant; especially in conjunction with the juggling we noticed in connection with that manifesto purporting to proceed from Adam Kok, that appeared in the *Colesberg Advertiser*. Then the Governor, and High Commissioner to arrange the diamond field question upon the part of the Cape Colony, was on his voyage out; and he at once fell into the views and interests of these gentry upon his arrival; the Colonial Government and Waterboer and Arnot were already in correspondence; the tempting diamonds,

meanwhile, being obtained by those detested *boers* and Free Staters, to whom, however, they rightly belonged.

[Note 2] As it had all along been well known that the Government of the Orange Free State never admitted any question or dispute as to its undoubted right to all the former territory of the late Cornelius Kok, south of the Vaal (which, as we have seen, even the professed notice from Adam Kok fully admitted), Mr. Arnot's impudent "question" can have had but one object, viz., to break off the conference. In this it of course succeeded.

President Brand (as the head of a populous and thriving state) must have exercised no little control over his feelings to reply to the precious questioning at all, and deserves no little credit for the very temperate and civil manner in which he did so. In his answer, of the same date, he points out facts of which his correspondents were already well aware, viz.,

"Our object is to investigate the question in dispute respecting the Campbell grounds. . . . I must again inform you that the Honourable the Volksraad has decided not to submit the question of the Campbell grounds (that is, the grounds to the north of the Vaal River), any further to arbitration; and with respect to the lands to the south of that river, to recognise no other than the Vetberg line, including the (British) land-certificate farms."

After the exchange of two more letters upon the same subject, and containing no especial point of interest, the correspondence ceased, and the two parties met in the afternoon. But now Waterboer's Councilors refused to give evidence, although the Free State officials had so very generously agreed to receive such. So the meeting naturally broke up, and on the follow-

ing morning, the 25th of August, Waterboer and his companions abruptly inspanned their waggons and treked off, without coming to any understanding, and without assigning any reason for the rude, uncourteous proceeding by which they so unceremoniously broke off the conference.

CHAPTER VII.

ANALYSIS OF THE ORAL EVIDENCE ADDUCED AT THE MEETING AT NOOITGEDACHT, BY THE GOVERNMENT OF THE ORANGE FREE STATE:—

EVIDENCE OF (1) MR. A. H. BAIN, OF BAINSVLEY, NEAR BLOEMFONTEIN, AFFIRMING THE LATE CAPTAIN CORNELIUS KOK TO HAVE BEEN SOLE AND INDEPENDENT CHIEF OF CAMPBELL AND ITS GROUNDS.—EVIDENCE OF (2) MR. H. NICHOLSON; (3) MR. W. O. CORNER, FORMER SECRETARY TO THE CHIEF, ADAM KOK, AND (4) PETRUS GOOJIMAN, CLERK TO DITTO; (5) MR. H. HARVEY, OF PHILIPPOLIS, CAPTAIN A. KOK'S FORMER AGENT; (6) MR. J. BARTLETT, FORMER PROVISIONAL CAPTAIN OF CAMPBELL; (7) JAN JANSEN; (8) PROVISIONAL CAPTAIN DIRK KOK, OF CAMPBELL; (9) ABRAM KOK, BROTHER TO THE LATE CAPTAIN DAM KOK; (10) ABIE SAMUELS, FORMER COUNCILLOR OF CORNELIUS KOK; (11) H. HENDRIKSE, FORMERLY GRIQUA GOVERNMENT SECRETARY; (12) AND, LASTLY, A FURTHER DEPOSITION OF MR. W. O. CORNER, PROVING (*a*) THE LINE BETWEEN CAMPBELL AND GRIQUA TOWN, (*b*) CAPTAIN CORNELIUS KOK'S INDEPENDENCE, AND (*c*) THE INHERITANCE OF HIS TERRITORY BY CAPTAIN ADAM KOK, (*d*) THE SALE OF THOSE GROUNDS TO THE ORANGE FREE STATE, (*e*) AND THE MAKING OF THE VETBERG LINE, &c.

ANALYSIS OF THE ORANGE FREE STATE CASE.

We will now proceed to examine the oral evidence given at Nooitgedacht (hostile to the solitary Mr. Sinden's, adduced to prove that Cornelius Kok was

not an independent chief) by witnesses produced by the Orange Free State officers.

Upon the first day of the meeting, Mr. Bain, of Bainsvley, an English gentleman well known in the Colony (and out of it as having entertained Prince Alfred, and conducted the great native hunt at Bainsvley for his Royal Highness's behoof when visiting that part of the world some few years ago), was called by Mr. Vels.

1. *Andrew Hudson Bain, sworn :—*

" . . . I knew Cornelius Kok well. He was * there (at Campbell) as Suzerain. *He was Chief and Captain of Campbell.* . . . Cornelius Kok showed me his staff of office, given him by Lord Caledon, by which he was recognized as chief. About this time Andries Waterboer tried to send his people from Griqua Town to Campbell, to endeavour to drive away the people from there. Jan Bloem at that time owed vassalage to Cornelius Kok, who called upon him for assistance, and Jan Bloem assisted him against Waterboer; † this kept Waterboer back, and Adam Kok was then called in as arbitrator . . . As long as I can recollect, Cornelius Kok was chief of Campbell. He was recognized by Barends, the Bloems, and all the Koranas, as chief—*paramount Chief of Campbell.* . . ."

2. *Harry Nicholson, sworn :—*

"I live at Draaihoek, at the junction of Riet and Vaal rivers, at the Campbell, or north side of Vaal River . . . I have two farms on the north side of Vaal River. One I bought of Jacob Waterboer, and the other from Abraham Kok, brother of the deceased Cornelius Kok. They had these two farms on a *request* (lease, or title deed) of *Cornelius Kok, Captain of Campbell.* I have resided on those farms since I bought them in 1861, before Captain Adam Kok left for No Man's Land.

* *Vide* p. 5, Blue Book, O.F.S. "Minutes of Meeting at Nooitgedacht, 1870," for report of this witness's evidence, as well as those following.

† This statement proves that Cornelius Kok waged war against Waterboer as an independent chief.

"I was well acquainted with Cornelius Kok . . . *He was an independent captain, and as far as I know not subject either to Captain A. Kok or Captain Waterboer. I always heard from Cornelius Kok, and also from his people, that he was an independent captain. Cornelius Kok had his own council, just as the other captains, Waterboer and Adam Kok. . . .*

"I always heard from the chief C. Kok and his people that there was a line between Griqua Town and Campbell. As far as I know, Cornelius Kok always ruled as far as that line went, and Waterboer on the other side. I believe I know something of that line, because I often heard from Cornelius Kok and his people how the line went, and know it as the history of the country."

The line between Campbell and Griqua Town.

The witness then described this line, and it proved to be exactly the same as that shown in diagram A, and fully defined at the end of Chapter II., by the testimony of Hendrik Hendrikse, Adam Kok's former Government Secretary.

The above evidence is very distinct as to the fact that Cornelius Kok was an independent chief.

The following testimony is equally clear as to the other fact, that Adam Kok did legally inherit the hereditary and territorial rights of Cornelius Kok.

"I know that Captain Adam Kok was successor of Cornelius Kok at Campbell. I was present at Campbell, I believe, in 1856 or 1857. We were all summoned from the district of Campbell. Adam Kok was present. Cornelius Kok then informed us that it was his desire, with the consent of his people, to lay down his office. *His reason for resigning was that he had become old and weak. . . .* Adam Kok then asked the people of Campbell whether it was with their consent. All answered 'Yes.' He repeated the question three times, and the answer was the same. . . . Adam Kok then asked for the cane. It was brought and handed over by Cornelius Kok in the presence of his people to Adam Kok, and at the same time another cane was given, belonging to Barend Barendse, before my time a captain of Boetchap."

(These canes were the insignia of chieftainship, and had been presented to the chiefs by Lord Caledon, in recognition of their independent rank. Waterboer carefully avoids explaining the existence of these optical proofs of Cornelius Kok's independent position).

"After these two canes had been given to Adam Kok he told the people to elect a Provisional Captain for themselves. They could not come to a choice, and then Adam Kok himself appointed one. In the presence of his people he appointed John Bartlett."

Where, then, was Waterboer, to allow this wholesale infringement of his prerogative? How is it that ever after he submitted to the presence and acts of Jan Bartlett?—that he never even protested against the same, if Cornelius Kok was his own nominee and subordinate?

The following statement proves that Waterboer never owned or possessed any part of the Campbell grounds; that, in fact, he tried to obtain part of them in the year 1861, but entirely failed:—

"I was present at a meeting at Vetberg in 1861, between A. Kok and Waterboer, when Adam Kok was about leaving the country . . . Captain Waterboer wished to make an exchange with Captain A. Kok. The people of Campbell were present. . . . Adam Kok then asked Waterboer to point out the land *he wished to give in exchange for Campbell*. Captain Waterboer then described the ground . . . which A. Kok refused, because it was dry ground. Adam Kok then gave leave to his people to sell their lands to whom they liked. . . . Some asked for a certificate for that purpose, which was given and granted by Adam Kok. The same day Davies bought an *erf*" (measure of land) "at Campbell from Jan Stiglingh.

"Waterboer did not, as far as I am aware, offer to purchase the Campbell lands. I only know that he offered to exchange.

"By virtue of the request (title deed) of Cornelius Kok, I still occupy the two places which I purchased. . . ."

The striking way in which the evidence of this and the succeeding witnesses agrees with the declarations of Hendrik Hendrikse (though the latter was given at a widely different time), already quoted as history in Chapters II., IV., and V., cannot fail to be noticed.

3. *William Ogilvie Corner, sworn:—*

"I live at Roodepan, in Jacobsdal (district), Orange Free State. I am son-in-law of Cornelius Kok, of Campbell. I knew him since 1839. . . . *He was already Chief of Campbell*, and since that time until his resignation in favour of Captain Adam Kok. *Cornelius Kok was an independent chief; he had a council, field-cornets and everything. He condemned people to death with his own council, alone, without any other council.* He was recognized by the British Government as Chief. I have seen the letter from the Governor who recognized him. The letter now shown me (No. 1) is the letter. He had a staff of office, which he received from Lord Caledon. On that cane was the inscription, 'Lord Caledon, Governor of the Cape, to Cornelius Kok, Captain of Campbell.'

"I am acquainted with the lines between Griqua Town and Campbell, and the ground between Adam Kok and Cornelius Kok, *as written by myself from the dictation of Cornelius Kok and his Raad.*"

The line between Griqua Town and Campbell was as follows:—

"A certain ford (drift) on Vaal River called Garries" (and also Koukonop); "from there to Withius; from there to half way between Griqua Town and Campbell to a Karreeboom; from there with a certain 'bult' (ridge) a vein which goes to the eastward of Kogelbeen. (The document written by me is now in possession of Adam Kok.)"

The line thus described is exactly similar to that given by the previous witness, as well as by Hendrik Hendrikse, which is fully shown in diagram A, and defined at the end of Chapter II.

Mr. Corner corroborates the construction of the

"Vetberg line," and Waterboer's undeniable assent thereto, by the following statement:—

"I know that, at the request of the Free State, a line was made by Captain Adam Kok, in 1855, between Captain Waterboer and Cornelius Kok. *I was present as clerk of Adam Kok. Captain Waterboer was present. . . Captain Jan Bloem was also there, and Captain A. Kok, of Philippolis, and Captain C. Kok, of Campbell. . . . I know that Captain Waterboer and Captain Cornelius Kok then consented to leave the decision of the line to Captain A. Kok, who then made the line. The document No. 19*" (of which a copy is given, with a small map or plan, in Chapter IV) "*is the line as decided by him. The document is in the handwriting of Adam Kok, and signed by him; the names of Petrus Pienaar and Stoffel Visagie are written by me. Captain Waterboer and Captain Cornelius Kok were satisfied with the decision.*"

(And well they might be, considering, as I have previously pointed out, that neither of them really had a shadow of right to an inch of ground south of the Vaal!)

"*Captain Cornelius Kok has always governed as independent chief over the ground mentioned by me as belonging to him.*"

The witness then testifies as to that chief's resignation in favour of his nephew, Adam Kok:—

"I know that Cornelius Kok laid down his government in 1857. . . . I saw the document by which the government was transferred to Adam Kok, at Philippolis, in 1857. I was then acting magistrate at Philippolis. . . Adam Kok had a law book, and he directed me to paste it in the law book. . . Contents as follows:—'That as he, C. Kok, was old in years, he made over his government to A. Kok, as heir of his people and country.'"

"I heard from Captain Adam Kok *that Waterboer and Jantje Mothibi were present at the resignation.*

"I know that Captain Adam Kok assumed the government of Campbell. I was present when he appointed John Bartlett as Provisional Captain; and *I, as clerk of Adam Kok, drew up several documents and regulations for the government of Campbell.*"

What, I should like to know, have Messrs. Waterboer, Arnot & Co. to say to that? But the fact is that they have never noticed all this indisputable mass of evidence, much less attempted to refute even a single word of it! The Colonial Government, the late Lieut.-Governor, and the present Governor of the Cape Colony, all backers of Waterboer, very coolly and comfortably pass by its formidable and unassailable array by the *mere assertion* that it is all untrue! But I have yet to see a solitary point proved by them in refutation of a single witness's veracity and general good character and reputation.

"I know that Captain Adam Kok, *as Captain of Campbell*, had a meeting with Captain Waterboer, first at Griqua Town, and afterwards at Vetberg, in 1861."

(This refers to the futile effort at exchanging part of Campbell for part of Albania.)

"At Vetberg they could not agree, on account of a certain dam, called 'Griqua dam.' Adam Kok said, 'I give'" (or rather, offer) "'you a land full of fountains, *and if you do not give me this dam I do not exchange.*' He called me immediately, and said, 'Write certificates for the people now present, so that they can sell their farms at Campbell to whom they like.' He commenced to inspan, and I then had Henry Mellish (who did not understand Dutch) with me, and he said, 'Give H. Mellish a copy form of the certificates to assist me in writing;' which I did."

An adjournment of the meeting here took place at noon, August 19th.

Resumed at Two o'clock.

William Ogilvie Corner further examined by Mr. Attorney Vels:—

"... Captain Waterboer *has never*, as far as I know, *assumed any authority over the Campbell grounds on this or the other side of the Vaal River.*"

"I believe that *Captain Waterboer* has respected the '*Veiberg line*' as approved by *Captain Adam Kok*, because he never made, as far as I am aware, any objections against it."

Saturday, 20th August.

Meeting re-opened at 9.30 a.m. Attorney Vels calls:—

4. *Petrus Goojiman, sworn:—*

"I formerly lived in Philippolis, and I went in 1855 to Campbell. I knew *Cornelius Kok* as *Chief of Campbell*, and I have served under him and his successor, *Adam Kok*, as burgher, seven years. *Captain Cornelius Kok* had councillors, just as the other Captains. As far as I know, he was chief of his people, independent of other Captains.

"According to what I heard from the old residents, there was a line (boundary) between *Captain Waterboer* and *Cornelius Kok*. . . .

"A meeting was then held in Campbell. *Cornelius Kok* said that he was old and weak, and had no heir, and that the nearest heir was *Adam Kok*; and he then gave, with the consent of his people, that came to *Adam Kok*, to rule his land and people. *Captain Adam Kok* at first saw difficulty . . but he said that he was nevertheless bound, as *Grigua Chief* and heir of *Cornelius Kok*. He then appointed *John Bartlett* as Provisional Captain. . ."

The following declaration by this witness still further proves the fact that *Waterboer* never had any interest in the *Campbell* grounds. Referring to *Adam Kok's* visit to *Waterboer*, in 1861, just before his departure for *No Man's Land*, he states:—

"*Adam Kok* then asked who would follow him . . . Those who were willing demanded that he should give them liberty to sell their ground on north side of the *Vaal River* to whoever they wished. *Captain Waterboer* and his Raad then saw difficulties to allow free sale on the north side of the *Vaal River*; and an arrangement was then made between *Captain Waterboer* with his Council and *Captain Adam Kok* with his Council. *Captain Waterboer* promised to give a portion of his land (*Albania*) on the south side of the *Vaal*

River, in order that those who wished to *trek* with Captain Adam Kok could get other places (land) there; and that the line on the north side of the Vaal River would then be inalienable to white people. The two Captains then went to Vetberg, *and I accompanied them.* At Vetberg the two Chiefs could not come to an arrangement. . . . Adam Kok then said, 'I give (offer) you a large portion of land to the north of Vaal River, and full of fountains, and (you) Waterboer wish to give me a tract of dry land for it, and I cannot be satisfied with it.' *He therefore declared the (proposed) exchange and arrangement void, and immediately gave instructions to W. Corner to issue certificates to the burghers of Campbell to sell their lands to whom they wished! I myself brought the certificates to Adam Kok for his signature, after Corner had written them. Adam Kok was quite dissatisfied that Waterboer wished to give him a dry tract of land."*

(This evidence is another proof of Waterboer's cunning, overreaching disposition, and further illustrates his hankering after the Campbell grounds, now so unjustly seized for him by the British authorities by force. Any one acquainted with Albania can readily appreciate Adam Kok's indignation when he saw the strip of dry, barren, sandy desert his crafty brother chief sought to foist upon him for the more verdant and better watered Campbell grounds.)

"As far as I know, Waterboer then made no claim to the ground on the north side of the Vaal River.

"As far as I know, Captain Waterboer did not, from 1855 to 1861, lay claim to the north side of Vaal River.

"As far as I know, Captain Cornelius Kok never received orders from Captain Waterboer how to act in his country"

By Mr. McCabe: (Member of the O.F.S. Executive Council)

" . . . I do not know whether the transfer of the government by Cornelius Kok (to Captain Adam Kok) was made known in writing to Captain Waterboer, neither do I know whether he received a verbal message: but after that time, during the Provisional Captainship of John Bartlett, Waterboer always acknowledged

him as the provisional captain of Adam Kok. I know it from several letters which Bartlett still has in his possession. *I was clerk to Bartlett. . . .*"

5.—*Mr. Henry Harvey, sworn:—*

(This gentleman's evidence is highly important, as he it was who acted as Captain Adam Kok's agent, and sold to the Orange Free State not only all the remaining Griqua lands [excepting only Albania] south of the Vaal, but also the Campbell grounds, or territory of Captain Cornelius Kok north of that river. I ascertained, whilst in the country, that his character and reputation stand high and unblemished, so that his credibility as a witness cannot be doubted.)

"I reside at Philippolis. I was general agent of Captain Adam Kok, by a general power of attorney, No. 4, dated 15th August, 1861." (Quoted by us in Chapter V). "By that I was authorised to sell the lands of Philippolis *as well as of Cornelius Kok*. I was first purchaser of all Government ground, which had to be inspected according to instructions of the combined Land Commission, document No. 2, Art. 5, dated 12th July, 1860." (Extract from the "instructions" referred to: "Art. 5. All uninspected lands in the territory of Captain A. Kok, *as well as of the late Cornelius Kok*, shall be inspected."*) Signed by the President of the Orange Free State and Captain A Kok), "and according to other instructions, marked* No. 3, Art. 5, 27th August, 1861." (Article 5 in these instructions is of precisely the same nature as that quoted from "No. 2 document.")

" . . . A day was then appointed on which the President of the Free State, with some of the members of the Executive Council, should meet Adam Kok at Vischgat. President Pretorius, Messrs. Steijn, Jacobus Venter, and Erwee as members of the Executive Council, with Captain Adam Kok, and the four members of the Land Commission (Griqua), Messrs. Voortman, Anthony

* *Vide* pp. 1 and 2, Annexures, Blue Book, O.F.S., "Minutes of Meeting at Nooitgedacht, 1870."

Kok, Jan Krijnauw, Theunissen, and I, were there. *That evening I purchased from Captain Adam Kok all the open Government ground which should be found according to the beforementioned Land Commission instructions, for the sum of £4,000.* President Pretorius came to my tent, and I told him that I had purchased the ground. He asked Captain Adam Kok, 'Have you sold it?' *Adam Kok said, 'I have now sold everything, I have nothing further to do with it'*

"Afterwards, before Adam Kok went to No Man's Land, I again came to Philippolis before him and his Raad. *I then asked Adam Kok to cancel the sale. Neither he nor his Raad would consent to it!* I said he was now going away, and it would be difficult for me to attend the Land Commission, and gave him several reasons why. Afterwards they so far agreed with me." (Although it does not transpire in the evidence, the witness meant to say that *his* purchase was revoked.) "I promised that I would sell it for the same sum of £4,000. The captain and his Raad said, 'Do so, then; but do not sell it for less. I leave everything in your hands; do with it what you will.' I said that I would try to sell it to the Free State Government. He said, 'Do so; do what you like; it is now in your hands.' I wrote one or two letters to the President of the Orange Free State, stating that if he came to Philippolis, and we could agree, I would sell him the ground. President Pretorius came to Philippolis with Mr. van Olden, and there we agreed, and I sold the ground according to what I myself purchased; and the deed of sale, No. 16" (quoted at length in Chapter V.) "was drawn up. . . .

"*The purchase money of £4,000, with the interest due thereon, I received from the Orange Free State Government. Adam Kok received from me between £7,000 and £8,000 before he left for No Man's Land, FOR WHICH I HOLD HIS RECEIPTS. I believe Mr. ARNOT drew up the receipts.*"

This is a very clear, positive, and definite statement of fact. Neither Waterboer nor his British allies have ever yet adduced evidence in refutation, although the latter have seized for the former *all the land so purchased, viz.,* that to the east, Free State, or Adam and Cornelius Kok's side of the Vetberg line, the Free State being thus robbed not only of land, but of £4,000 as

well! Indeed, it loses more than this, for a considerable portion of the lands which were privately bought (the prices of which made up the larger sum of money Mr. Harvey paid to Adam Kok) have been cut off, also, by the boundary line of the large tract of Free State territory "annexed"—that is to say, robbed, plundered, stolen, or filibustered—by Sir H. Barkly, Governor of the Cape. Advisedly I select an individual, because (1) the Cape Parliament having finally rejected the little bill by which he sought to obtain their sanction, consent, and endorsement, (2) and the Imperial Government in Downing Street, having only given him a provisional authority to annex, by and with the formal assent of his Parliament, he stands solitary and alone responsible for the premature, illegal, and utterly unauthorized hostile invasion, seizure, alienation, and annexation *vi et armis* of Free State territory. Mr. Harvey's evidence continues:—

Cross-examined by Mr. Grant.

"When I sold the ground to President Pretorius, *I did so according to the deed of sale*, as I was unacquainted with the boundary line; had I known the boundary line then, I would never have sold for that price. Mr. Pretorius did not ask me whether I sold the lands to the North side of Vaal River; *but I sold him the Campbell lands, wherever they might be situated, according to the Deed of Sale.*"

"*After the sale Mr. Pretorius laid claim to the Campbell lands, and the Government of the Orange Free State did so also.*"

"*Adam Kok never after the sale denied the sale of the Campbell lands. . . .*"

"*I sold all the lands which belonged to Cornelius Kok, as I bought them from Adam Kok.*

"Besides the lands described in the Maitland treaty. *I also sold the lands of Cornelius Kok.*"

On these points this witness is corroborated by all the others, and by a vast mass of documentary evidence, proving that not only was Adam Kok, at the time, thoroughly satisfied with his bargain, but that neither protest nor complaint was heard from Waterboer until long after, when the ubiquitous *Mr. Arnot* seems to have got to work.

The land actually sold south of the Vaal (excepting the Campbell lands to the north) was that other extensive tract of country named *South Adamantia*, on all our diagrams. It constituted the greater part of the "alienable territory" defined in the Maitland treaty, and was afterwards recognized as pertaining to Captain Cornelius Kok, being the same land that was separated and marked off from his own territory of Philipopolis by Captain Adam Kok, by the line he made from Ramah to David's Graf in 1840, and being also the same land that was definitely beacons off from Waterboer's territory of Albania by the "Vetberg line" in 1855. At the same time it must be remembered that the Free State Government did not purchase anything like the whole, or even a half, of this territory, but only the "open grounds," for most of it was already in the occupation and possession of Free State farmers, or burghers who had already at various and widely different periods, purchased their farms therein, both from Cornelius and Adam Kok.

After an adjournment from noon until two p.m. on August 20th, the meeting was resumed.

Attorney Vels said that he had more witnesses, who

refused to appear, unless summoned, which he requested should be done, in writing, by the President and Captain Waterboer. This having been arranged, he calls—

6. *John Bartlett, sworn :—*

(We must premise that this witness, *the former Provisional Captain of Campbell appointed by Adam Kok, at the resignation of Cornelius*, was then one of Waterboer's own raad, or council, and gave his evidence with reluctance.)

"I live at Campbell, and have resided there *for about 31 years*. When I came to Campbell, Cornelius Kok was chief. As far as my knowledge goes, *he was there an independent chief*. He had a raad. . . . He had a cane. . . . The cane signified that he was a captain. That cane he gave over to Captain Adam Kok, because he was too old—*so he made over his authority over his people to Captain Adam Kok*. . . . *I was present . . . Cornelius Kok made over his Government to Adam Kok . . . Before his departure Adam Kok appointed me there as provisional captain, and I remained provisional captain of Campbell until 1861. . . .*"

By this evidence we see that during a period of *four years*, from about the middle of 1857 to August or September, 1861, this witness exercised the functions of Provisional Captain of Campbell for Adam Kok, who was the paramount chief as heir and successor to Cornelius, *without any protest, intervention, or even complaint, from Waterboer!* Yet now, forsooth, this latter and his British official backers have the unblushing hardihood to pretend that *he* was always Chief and Captain of Campbell! But they do not explain how it came to pass that, after the resignation of old Cornelius, both the subsequent provisional captains of

Campbell were appointed by Adam Kok, the chief into whose hands not a shadow of doubt exists that he resigned his government.

"I cannot say, but I have heard, that there was a line between Campbell and Griqua Town. I heard it from the people; those born in the country. I also heard it from the late Cornelius Kok."

(This refers to the line described in Chapter II, and defined on diagram A. The witness being so old a resident of the Campbell lands *must* have been well acquainted with it, but no doubt gave his evidence unwillingly, and in dread of Waterboer.)

"I was present in 1855, on the farm of Stiglingh, when the line on the other, or south side, of the Vaal River was spoken of; it was at Riet River. The farm of Stiglingh, is called 'Abraham Moosfontein.' There the chiefs were together, *Captain Waterboer*, Captain Adam Kok, and Captain Cornelius Kok, and held a meeting there about the line; and they there decided where the line was to go. They made the line. . . ."

(This was the "Vetberg line," which Waterboer and his allies now dispute, and actually declare to have been made without his knowledge, presence, or sanction!)

. . . "I have a farm in the territory of Campbell. *I have a request (title deed) of it from Cornelius Kok!* I have the request still. . . ."

(This is pretty conclusive evidence (by one of Waterboer's own raad, too) that that chief never ruled over the Campbell lands, because, if he did, the title deeds would have been given by him—not Cornelius Kok!)

"I am now one of the members of Captain Waterboer's Volksraad. . . ."

Cross-examined by Mr. Grant.

"Waterboer was not present when I was appointed provisional captain by Adam Kok. *I did not ask Waterboer's approbation of my appointment.* . . .

"It was first a positive law of all the Griquas that the ground could not be sold to white people. This was, however, afterwards done by Captain Adam Kok. But with Waterboer the old law still exists."

(This is, indeed, a well known fact; and, as it is equally certain that the grounds now claimed and wrongfully seized for Waterboer by the Colonial Governor, *were sold*, at various periods, and, finally, whatever remained of them in 1861, to the Orange Free State, it affords another very positive proof that the present crafty claimant never could have been the owner.)

"Cornelius Kok sold ground on the other or south side of the Vaal River."

The following statement very clearly proves again that Waterboer certainly had neither the slightest authority nor jurisdiction over Campbell during, at least, the term of this witness's office there, for criminals were subject to extradition from Campbell according to whether they were natives of Waterboer's territory or the Philippolis territory of Adam Kok.

Re-examined by Mr. Vels.

"Whilst I was provisional captain, I apprehended people at Campbell. The persons whom I apprehended I took to Griqua Town *because they were subjects of Waterboer. I took two prisoners of the people over whom I had been placed to Philippolis; they had committed a murder within the territory of Campbell.* The criminals whom I took to Griqua Town had also committed murder in the territory of Campbell. The prisoners whom I took to Philippolis were two

Bushmen who resided at Campbell. They had committed the murder after the death of Captain Cornelius Kok."

7. *Jan Jansen, sworn :—*

(This witness was also one of those who had to be summoned, being under the influence of Waterboer.)

"I live at Campbell, *and grew up there*. I knew Captain Cornelius Kok. As far as I know, *he was an independent captain, because he always ruled there. . . . He had a raad, just as the other captains. . . .*

"Cornelius Kok, before his death, made over his government to Adam Kok. I was present on the occasion. He said to Adam Kok, 'I am too old ; my body is too weak ; I cannot govern as it ought to be ; now I make it over to you as a young man, *and my heir*.' There were many present. Adam Kok also spoke. He said he could not (accept). 'He was too far.' 'I have enough to govern there' (at Philippolis), 'so that it will be difficult for me to come here, and to govern from there here, and from here there.' He said, secondly, 'How shall I govern you? *You have sold your ground* (or parts of it); people ought to be ruled on ground. How can I govern people without ground?' At last he said, 'Well, you must give me a clear (or clean) line. . . .'"

(Here, again, crops up a further very convincing though indirect proof that Waterboer had nothing whatever to do with either the lands of Cornelius Kok or his actions. Waterboer's people have *never, to this day, sold land*; whereas, from the year 1840, till his resignation of government in 1857, Cornelius Kok and his people always did; Adam Kok disposing of the remainder of their "open ground" at the sale by Mr. Harvey on the 26th of December, 1861.)

" . . . I did not see that Captain Adam Kok, or *Captain Nicholas Waterboer*, governed at Campbell. Neither do I know that they governed there. In 1861, I went under the government of Captain Nicolas Waterboer."

With this we terminate our extracts from the oral

evidence adduced in favour of the Orange Free State at the "Meeting at Nooitgedacht." Surely it is far more than sufficient to counteract the testimony of the solitary witness Waterboer produced; especially as, to this day, not a single fact has been forthcoming either to refute one word then stated, or to even challenge the credibility of one of the seven Free State witnesses—all, be it remembered, individuals whose evidence is entitled to the most serious consideration, two being English gentlemen of well-known probity and position, the remaining five Griqua officials, of all others the most likely to be thoroughly well acquainted with the acts and true rank of the late Cornelius Kok! In fact, their evidence stands unchallenged and indisputable.

But to still more unmistakeably prove the merits of the Free State case, and justify my own animadversions upon the conduct of the British authorities who have so wrongly put up Waterboer and his false claims as a puppet and as philanthropic pretensions to mask their own mercenary and aggressive intentions, even at the risk of nauseating with a surfeit of similar statements the few who may wade through these writings, I venture to supplement the evidence just concluded by extracts from the report of the Land Commission referred to at the beginning of Chapter VI.

Extracts from "Minutes of the proceedings of the Commission deputed by the Government of the Orange Free State, in December, 1863, to inquire into the rights of the Campbell grounds :"—*

"The commission met this morning, the 11th inst. (at Campbell) and immediately requested the Provisional Captain, Dirk Kok" (successor to Jan Bartlett), who had been appointed by Captain Adam Kok to come over, who arrived in the evening, and made the following declaration :—

"I am a son of Adam Kok, generally called Kort Adam, and arrived in 1815 from the Kamiesbergen (Cape Colony) at Griqua Town, and there found as ruler Adam Kok; and at Campbell the now deceased Cornelius Kok was then there as ruler!"

(How does this statement, the repetition, indeed, of a well-known historical fact, coincide with the mendacious assertion of Messrs. Waterboer & Co., that the late *Andries Waterboer* appointed the late Cornelius Kok to Campbell as *his* subordinate? It is notorious that Cornelius Kok, as the witness testified, was already Chief of Campbell long before old Andries Waterboer was raised from obscurity, and made first a constable, then the Chief of Griqua Town, by old Dam Kok.)

The Provisional Captain, Dirk Kok, "added the following evidence :"—

"Cornelius Kok, who was Captain of Campbell, had his own councillors, and held his own raad, *wholly independent of the Governments of Griqua Town, Boetchap, and Philippolis . . . Cornelius Kok never had to give any account to Captain Waterboer of his doings.*

"I was also present when Captain Kok, of Philippolis, and the now reigning Captain, Nicolas Waterboer, of Griqua Town, wanted to make an exchange of grounds at Vetberg. The exchange was to

* Vide p. 4, Annexures, "Annexure No. 6," Blue Book, O.F.S., "Minutes of Meeting at Nootgedacht, 1870."

have been as follows :—Waterboer was to give to Adam Kok the grounds, or at least a part of the ground (Albania), on the south side of the Vaal River, but not the river-field, for Campbell and its grounds; but Adam Kok refused to do so, because Waterboer wanted to give him dry field, whilst Campbell and its grounds had many fountains. Waterboer then said, ‘*Well, buy this ground on this or the south side of the river, then I shall buy Campbell and all the adjacent lands!*’ ”

(Pretty strong evidence, this, against Waterboer's impudent claim!)

“To which Captain Adam Kok replied, ‘Then my people themselves can sell those lands;’ and immediately gave orders to write out certificates for the people of grounds in and about Campbell, which was at once done.”

(It is at least singular how Adam Kok granted title-deeds of the Campbell grounds in the actual presence of the now alleged owner and paramount chief—and that, too, without encountering either protest or impediment!)

“On his death (or, rather, before it) Captain Cornelius Kok, of Campbell, made over Campbell with all its grounds, as the lines (boundaries) were, to Captain Adam Kok, of Philippolis; also the staff of office; in the presence of Nicolas Waterboer, of Griqua Town, myself, and several other persons; and Captain Adam Kok then (afterwards, in 1861, when Jan Bartlett retired) appointed me as provisional captain, at which Waterboer did not show any dissatisfaction, and he never hindered me in, or interfered with, my government!”

This declaration is pretty conclusive, though some confusion seems to have occurred in the translation, copying, or reporting of dates. However, the main point is the fact that Dirk Kok was the second Provisional Captain of Campbell; that he was appointed

by Adam Kok; and that, like his predecessor, John Bartlett, and also the late Captain Cornelius Kok, he never gave any obedience to Waterboer.

“2. *Abraham Kok declares as follows:—*

“‘I am brother of old Dam Kok, the former Chief of Philippolis. I was here first at Griqua Town and Campbell in 1812. . . . Adam Kok, or old Dam Kok, was Chief of Griqua Town, and afterwards of Philippolis, and Cornelius Kok was appointed as Chief of Campbell. . . .

“‘Captain Waterboer HIMSELF TOLD ME, when I asked him about the boundary line between Campbell and Griqua Town, that the line went from the drift in Vaal River, named Koukonop, in about a northerly direction to Withuis, and thence to half way between Campbell and Griqua Town, and from there to Kogelbeen, and then further on!’”

(This is again exactly the line we described in Chapter II., and depicted on diagram A, and is the same that was sworn to (without the least material difference) by all the witnesses, both at Nooitgedacht and before the Land Commission whose proceedings we are now investigating. One cannot avoid the pertinent reflection the continual mention of this line induces, namely—What was the line between Campbell and Griqua Town made for, if both territories, as now asserted, belonged to one and the same chief, our friend Waterboer?)

. . . “‘I then asked him, ‘If Adam Kok had, as I had heard, sold all the grounds of Cornelius Kok, of Campbell, to the Free State Government, how it would then be with the private property of the people?’ To which Waterboer replied, ‘I do not know, for I do not even know how it will be with my own ground which is on the place.’ He meant thereby ground in Campbell.’”

(Waterboer at this time was the owner of two or three farms and *erven* in Campbell and the country around, to which the conversation alludes.)

“‘I was present at the death of Cornelius Kok, and then heard that he had made over Campbell with all its rights and ground to Captain Adam Kok, of Philippolis, together with the cane of office. *Captain Waterboer was also present, and did not say anything against it.*’”

The evidence of this well-known and leading Griqua is irresistibly overwhelming to the trumped-up Waterboer case. The above pointed dialogues have yet to be refuted, or even denied. Abraham Kok then went on to prove, as all the other witnesses had done, the appointment of the provisional captains of Campbell *by Adam Kok*, and the abortive attempt made at Vetberg in 1861 “to exchange the lands of Campbell for a tract of dry ground” in Albania; after which he further declared :—

“‘I also know that Waterboer has accepted *erven* situated at Campbell, as a present for his child; which *erven* (measurements of land) *were originally issued by Captain Cornelius Kok, by requests, (title deeds) to a certain Stiglingh, and sold by Stiglingh to Captain Adam Kok.*’” . . .

The following genealogical statement, particularly interesting to Waterboer, very clearly proving the impossibility of the alleged appointment of Cornelius Kok to Campbell by one (and the first) of that ilk, will be found to fully corroborate our historical description in Chapter II of old Waterboer's *debut* on the political stage of life :—

. . . “Old Waterboer was a messenger of Griqua Town when old Dam Kok had a dispute with the missionary at Griqua Town, and then appointed my uncle, Adam Kok, commonly called Kort Adam, to administer the local affairs of the village of Griqua Town. This Adam Kok being a blacksmith by trade, and having much to do, appointed the now deceased Waterboer, so long the messenger

of the place, to keep the village of Griqua Town in order: and afterwards, when old Dam Kok established Philippolis, *he appointed Waterboer as Captain of Griqua Town*, as the inhabitants of the place desired it. CORNELIUS KOK WAS THEN ALREADY CAPTAIN OF CAMPBELL!!”

(Very precise and distinct this! From an eye-witness of, and participator in, the scenes described, too, as were most of the witnesses whose evidence I am analyzing on the Free State side, as opposed to the bare, unsupported, uncorroborated *ipse dixit* of the present Waterboer, *who was not born at the period (1812—15) referred to!*)

“Adam Kok, or old Dam Kok, then also made the boundary line between Griqua Town and Campbell. . . Boetchap was cut off from the lands of Campbell when Barend Barendse became Captain of it, but after his death it again came under Campbell and Cornelius Kok.”

“3. *Arie Samuels being called, declares:—*

“‘I always was a councillor of Cornelius Kok, and I resided at Campbell. Cornelius Kok was appointed as Captain of Campbell, and Barend Barendse of Boetchap. Waterboer was then also made Captain of Griqua Town. The line between Campbell and Griqua Town was already made in the time of old Dam Kok, when he was Captain or Great Chief of the whole country and people of the Griquas.’”

(He then describes the line given in diagram A, adding, however, the following important evidence):—

“‘This line, just now mentioned, *was shown to Waterboer at the meeting at Vetberg in 1855, and I have never heard that he disputed that line.*’”

The witness then describes the meeting at Vetberg in 1861, and the failure of the proposed exchange of lands (its object,) and narrating the issue of title-deeds

to the people of Campbell, on the spot, by Captain Adam Kok, adds,

“*This happened in the presence of Waterboer and some of his councillors, against which Waterboer did not object.*

“*I was also present when Cornelius Kok, of Campbell, shortly before his death, made over Campbell and its lands to Captain Adam Kok, of Philippolis. This happened in the presence of Captain Waterboer, against which he made no remark.*

“*Captain Cornelius Kok, of Campbell, had his own councillors. I was always one of them, and we never had to give any account to Waterboer. Waterboer had his council at Griqua Town.*”

From the sworn depositions of Hendrik Hendrikse, already so freely quoted in Chapters II, IV, and V, and who was so long the Government secretary to the Chief of Philippolis, we take the following extracts:—

“4. *Hendrik Hendrikse, sworn by J. G. Siebert, Esq., Landdrost of Fauresmith:—*

“*Adam, or Dam Kok, was appointed to rule at Griqua Town, and Cornelius Kok to rule at Campbell. . .*

“*Dam Kok, as being chief of the whole Griqua nation, fixed a boundary line between Griqua Town and Campbell, resigned his government of Griqua Town to Waterboer (about the year 1820), and Cornelius Kok had the government of Campbell with its grounds.*

. . . “*I have to add something. If (see Blue Book) Cornelius Kok was appointed as Captain of Campbell by Waterboer*” (the witness is disputing this chief's mendacious claim), “*how can it be reconciled with the fact that Waterboer, with Dr. Philips, in 1833, (see Blue Book) asked the British Government, by letter, to appoint Abram Kok in the place of Cornelius Kok, at Campbell?*

“*Secondly, if Campbell was included in the lands of Griqua Town, how then came Waterboer with Dr. Philips, to ask the British Government, in 1833, that Campbell might be annexed to Griqua Town? for in 1820, Waterboer (old Andries) became Chief of Griqua Town and (as Nicolas Waterboer now alleges) Campbell, and could not*

therefore ask thirteen years later to become chief of lands over which he says he had so many years before been appointed chief?"

Messrs. Waterboer, Arnot, Southey & Co. would find it remarkably awkward to answer satisfactorily for their own pretensions these very pertinent questions put by the shrewd former secretary of the Philippolis Government. But in truth they have never yet taken the trouble to refute any of the Free State overwhelming evidence of right and title to all the former territory of the late Cornelius Kok; British bayonets, Sir Henry Barkly, the Cape mounted and armed frontier police, &c., having supplied a much more simple and effective *argumentum ad hominem*.

"5. Mr. W. O. Corner:—

"Hands to the Commission in elucidation of the rights of Campbell the following documents, No. 1—12, inclusive, and further declared that everything that he has heard of the declaration of Hendrik Hendrikse, Abraham Kok, Dirk Kok, and Arie Samuels, as far as it is within his knowledge, is the truth."

It is, indeed, no less singular than worthy of notice how clearly and distinctly every one of the witnesses corroborates the testimony of the others. Yet, forsooth, Sir Henry Barkly and the Cape Government have actually accepted the nigger Waterboer's mere *ipse dixit* to the contrary! I find that Lieutenant-General Hay, then acting-governor of the Cape, was the first to do so, in September, 1870, and further, upon no better grounds, to deny the veracity of the sworn statements of some score of well known, highly respectable witnesses, whose amply attested declarations exhibit such perfect unanimity. Indeed, General Hay and his successor, Sir H. Barkly, pretty distinctly *assert*, but never yet have adduced an *iota* of proof, that

all these witnesses in favour of the Free State rights are rogues and vagabonds, and have conspired together to wrong, cheat, and plunder their suddenly dearly beloved Waterboer of his diamond-fields! But they quite fail to perceive, or at least give no sign of consciousness, that they thereby assert what would be one of the most perfect and stupendous conspiracies, or combinations of governments, peoples, and disinterested individuals to perjure themselves, which can possibly be conceived! Why, the Tichborne case is nothing to it! These two officials, or, rather, their instigator and backer, Mr. Southey, the Colonial Secretary, coolly charge two white, Christian, and civilized governments (that of the Orange Free State, and of the Transvaal Republic), composed, to all appearance and knowledge, of gentlemen as good and honourable as themselves; a great number of the burghers of both states; together with nearly all the surviving relatives and members of the late Cornelius Kok's government, and a host of independent witnesses, with fraud, conspiracy, and perjury! Yet, not to this day—and I defy contradiction—have they rebutted one single statement or declaration made in favour and support of the claims of the Orange Free State!

Mr. Corner further adds:

"That in the lifetime of Cornelius Kok, he received a power of attorney from that chief to sell lands in the territory of Campbell, which he did! On the death of Cornelius Kok, Captain A. Kok, of Philippolis, again confirmed this power, on which he sold a place in the Campbell lands. Some of Waterboer's councillors expressed dissatisfaction at it to Waterboer, and Waterboer said to them, 'W. Corner has a right to do so. We have nothing to do with it!'"

The power of attorney here mentioned we shall have occasion to quote and refer to by and by, when the time comes to disprove General Hay's and Sir Henry Barkly's iteration of Waterboer's absurd lie—that Cornelius Kok was not an independent chief, and Adam Kok was not his "lawful heir and successor."

The Commission wound up its labours by the following declaration :

"The commission exceedingly regret that Captain Waterboer did not come to Campbell to meet them, as they could then without any doubt have considered the matter as finally disposed of; as they are of opinion that no counter proof can be produced by Captain Waterboer against the undoubted fact that the grounds of Campbell were formerly governed by Captain A. Kok, and sold to the Free State Government by the Griqua Government of Philippolis, and have by that purchase become the indisputable property of the Free State Government.

"The Commission believes they have obtained such written proof as conclusively establishes the fact *that Cornelius Kok did govern, and Waterboer never governed, this part of Griqua land to the north of the Vaal River*; that Cornelius Kok before his death made over the government to Adam Kok, Captain of Philippolis, who first gave liberty to his people to sell their farms to white people, and afterwards, by his representative, sold the grounds formerly governed by Cornelius Kok, as well as those of himself, to the Free State for a fixed price. . . ."

Signed by

Dated at "Abraham Moosfontein,
December 13th, 1863."

"VAN SOELEN,
J. G. SIEBERT,
J. A. SERFONTEIN."

When one comes to consider the great trouble and the continual solicitude ever displayed by the Government of the Orange Free State to ascertain its just

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rights, no less than to avoid infringing upon those of its weak and helpless, though highly offensive and undesirable, neighbour, Waterboer, the more indignant must any honest Englishman feel at the treatment to which that State has been subjected in the matter of the diamond fields by his own Government officials.

With Mr. W. O. Corner's statement we conclude the oral evidence given both at Nooitgedacht in 1870, and before the Commission at Campbell, in 1863, in support of the right and title of the Orange Free State to the grounds of the late Cornelius Kok, known as the Campbell lands, north of the Vaal River. Comment thereon seems quite needless, especially as those declarations still stand unshaken and unassailed, and all are so precise and intelligible, so very positive and definite upon the point we have striven to prove by this chapter, viz., the fact that the late Cornelius Kok ruled and governed the Campbell grounds as an absolute and independent Chief.

The twelve documents referred to as submitted to the Commission by Mr. W. O. Corner are appended to this chapter in the form of an annexure. The originals are in that gentleman's possession, and were obtained or received by him whilst serving the Government of the Koks in an official capacity. They are every one letters to Cornelius Kok, all but two being from both Adam Kok and Waterboer (which is an invaluable fact in the present controversy); and it will be seen that each document is addressed to Cornelius Kok as the *Chief and Captain of Campbell*.

ANNEXURE TO CHAPTER VII.

Being copies of original documents possessed by Mr. W. O. Corner, and produced by him at the meeting at Nooitgedacht.

No. 1. [Translation.]

“Philippolis, May 31, 1854.

“To the Chief CORNELIS KOK and his Raad (Council).

“By this we wish to bring to your notice the present state of our country. You will know the proposal of Her Majesty’s Commissioner, Sir George Clerk, to us, when he left this country, that the Griqua nation totally declined his proposal to sell farms in the line to farmers, &c.

“I am sorry to tell you that, after Sir George Clerk left, eight farms have already been sold to *boers* by the Griqua nation, and the sale is confirmed by the Landrost of Sannah’s Poort, contrary to our law.

“There are also about forty farms bespoken by the farmers, with some Griquas. Now, we don’t know what to do. If we try to hinder it, it might bring on a war; therefore we wish you to tell us your thoughts. We will be pleased with your presence and some of your Raad at Philippolis. The position of our country requires of us to ask you earnestly to be present with your Councillors to consult with us—to convey your mind to the preservation of our country. We will be glad if you can be here as soon as possible. We have also invited the other allies.

“I remain, your upright friend,

“ADAM KOK, Captain.

“It is not uncertain that war will arise if there is hindrance, and prevent the *boers* from taking the farms. We sit deep in the middle and far off.”

No. 2. [Translation.]

Extracts:—

“Melkbokfontein, January 3, 1854.

“To the Captain NICKS. KOK, my brother,—

“I acquaint you of the cases you did not hear of before in the time that my father lived. Old Ambral Lambert, already a captain,

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was a good, intelligent man. At that time was the minister called Schnemelun with him. Then the country was barren; and then Captain Cornelis Kok made war against the Pienaars. . . . Even the Captain Cornelis oppressed his own people and plundered. . . . Dear brother, I wish to make a treaty with my friends, and I shall await the answer. My dear brother, what do you think of all these cases? Of the answer of the captain, Jan Bloem, he will do his best to send the answer of the Captain. So can my brother. My brother will also hear from the Captain Adam Kok what I wrote to him, and also to the Captain Klaas Waterboer. I have written the same up to him. I am persecuted by these captains; they now look for the Damara Captain, whom, with me, together, they try to plunder. He is a person whom I made a treaty with.

“You be greeted by me, the friend of you,

“JONKER AFRIKANER, Captain.”

No. 3. [Extract from Translation of letter.]

“Griqua Town, 10th April, 1854.

“To the Captain C. Kok, Campbell.

“To the Captain,—Dear Captain and uncle, by this I have the honour to send you these few lines, to mention to you about the circumstances and the state of things in the vicinity of Philippolis, on the 16th day of March. Her Majesty’s Commissioner, Sir George Russell Clerk, arrived at Philippolis, on his way to the Colony, with his people, who were then leaving the Sovereignty, where he, the following day, requested the Captain to have a meeting, which was agreed to. After the meeting had been together, Sir George Clerk then made a proposal to the Captain, that he meant Adam Kok should allow the land to be publicly sold to the *boers*; that it would be all that would bring peace into the country, as he has now given the country to the Boer Government, from the banks of the Vaal River to the banks of the Zwart (Orange) River, and this treaty between them has been broken. . . .”

No. 4. [Translation.]

“Philippolis, 13th February, 1854.

“To Mr. CORNELIS KOK, Chief of Campbell.

“SIR,—Contents as follows: That the undersigned was recently at

Bloemfontein, to see Sir George Clerk, and he advised me to sell the farms within the line to the *boers*, as peace between us would then be restored.

"A meeting was held, but the *boers* declined the offer, and said to my people that, if circumstances needed, they would even lay down their lives.

"Your true friend,

"ADAM KOK, Captain."

No. 5. [Translation.]

"Philippolis, 12th May, 1853."

"To the Chief of Campbell Grounds, CORNELIS KOK.

"SIR,—By this I have to acquaint you that we will not be able to have the desired Griqua meeting, as the *boers*, according to report, are now prepared to go to war with Mahura. The *Friend* says that there is already war, and the *boers* have lost ten men; we are getting ready for the journey to Campbell and Griqua Town, according to our former letters. If it is the truth, the report in the *Friend*, we know not; it was here said so.

"With respects, your obedient servant,

"ADAM KOK, Kaptyn."

No. 6. [Translation.]

"Philippolis, 22nd August, 1853.

"To the Captain CORNELIUS KOK, Chief of Campbell.

"DEAR CAPTAIN,—We feel it our duty to give you timely notice that we have heard that the Sovereignty is to be abandoned by the English. The Commissioner who came from England has arrived at Bloemfontein.

"We have not yet received letters from him, but we expect him in our midst daily.

"The moment he arrives, or when we shall meet him, we will be able to write you further on our circumstances and our ideas.

"We know not what result these circumstances may bring, but we can be sure of it, and expect great changes to take place, that will save our interests as nations; therefore it is highly necessary that

our understanding—as a nation and a people—should in the present times be known.

“It will highly please us to receive an armed force from you, as soon, and that you will acquaint to us your ideas about these weighty circumstances.

“I have the honour to be,

“Your obedient servant,

“ADAM KOK, Kaptyn.”

No. 7. [Translation.]

“Griqua Town, 20th September, 1853.

“For the Captain CORNELIS KOK.

“DEAR CAPTAIN,—Contents respecting some horses stolen from a Mr. Abraham Wilge, of Beervley.

“N. WATERBOER, Kaptyn.”

No. 8.

“Griqua Town, 9th May, 1853.

“DEAR SIR AND UNCLE,—Contents respecting the purchase by Waterboer of a cart from Cornelis Kok.

“I have the honour to be, with regard,

“Your sincere servant,

“N. WATERBOER, Captain.”

No. 9.

“Philippolis, 9th April, 1851.

“To Captain CORNELIS KOK.

“SIR,—As I have written you a letter, as also the other Chiefs, to meet you at Lekatlong, on Saturday, the 12th instant, I have to inform you with regret that business has greatly hindered me that I am not able to come there myself according to promise. But I have received tidings with much joy, that you and Jantje have arranged the difference which existed between you, and that peace has been established. I would request you and the other Chiefs to

preserve peace as much as possible with each other; never allow war to be heard of amongst you.

"I am, Sir, your obedient servant,

"ADAM KOK, Captain."

No. 10.

"30th July, 1849.

"To Captain CORNELIS KOK, Captain, from CHRISTIAN BOCK.

"Contents: Application for a farm."

No. 11.

"Philippolis, 18th January, 1843.

"To Captain CORNELIUS KOK, Captain of Campbell.

"DEAR UNCLE,—Contents: Respecting a farm of Willem Vry.

"Captain ADAM KOK."

No. 12.

"Griqua Town, 3rd August, 1848.

"Letter from A. WATERBOER, Captain, to

"Captain C. KOK.

"WORTHY FRIEND,—Contents: Appeal to work together against the *boers*."

CHAPTER VIII.

ANALYSIS OF THE DOCUMENTARY EVIDENCE PRODUCED BY WATERBOER, AT THE MEETING AT NOOITGEDACHT, IN SUPPORT OF HIS CLAIM TO THE FORMER TERRITORY OF THE LATE CORNELIUS KOK.

WATERBOER'S CASE.—ANALYSIS THEREOF.—DOCUMENTARY EVIDENCE IN SUPPORT.—ANNEXURES NOS. 1, 2, 3, AND 4.—“ANNEXURE No. 5.”—AN ALLEGED TREATY BETWEEN A. WATERBOER AND A. KOK, IN 1838; ITS VITAL IMPORTANCE TO WATERBOER'S CASE; ITS THREE MAIN CLAUSES REVIEWED IN DETAIL.—THE ALLEGED DIVISION OF ALL GRIQUA LAND BETWEEN A. WATERBOER AND A. KOK DISPROVED; ALSO THE LINE FROM RAMAH TO PLATBERG, AS CLAIMED BY WATERBOER AND CO.—GENERAL ARGUMENTS AGAINST THE GENUINENESS OF THE PRETENDED TREATY.—TREATY BETWEEN CORNELIUS KOK AND JAN BLOEM.

Having concluded the *viva voce* testimony forthcoming at the Nooitgedacht meeting, it is necessary to now analyse the documentary evidence produced on either side; giving to the plaintiff, as before, the preference, and again commencing with the statement of his argument, case, or object, viz.:—

1. That Cornelius Kok was not an independent chief, but Waterboer's under officer or subordinate.

2. That the territory known as that of Cornelius Kok—the Campbell grounds, as well as such part of South Adamantia as fell within a line drawn from Ramah on the Orange to Platberg on the Vaal River,—really belonged to him, Waterboer.

I must also premise that as it would be a great waste of time, and would swamp this work with a mass of utterly irrelevant matter, to quote or discuss *seriatim* every paper and documentary reference produced by Waterboer's advisers and coadjutors, I have only selected those really bearing upon the points at issue. That I have so chosen and reviewed *all* such evidence, and only excepted irrelevant, unimportant papers and parts of papers, I pledge my honour, and challenge investigation.

ANALYSIS OF WATERBOER'S CASE.

The documents here noticed still constitute Waterboer's entire case, and although in possession of and regularly receiving the latest official intelligence, I am not aware of any fresh evidence in addition thereto.

The first four documents laid over by Mr. Attorney Grant, at Nooitgedacht, in support of Waterboer's case, consisted of certain pages of the Blue Book of 1837; the Blue Book, "Kafir Tribes, 23rd June, 1851;" and several Missionary Society Reports, 1813—15; all unimportant,—except in so far as the imaginary beatification of old Andries Waterboer and several other equally vain, past, and mythical shining Griqua lights are concerned.

1. But "Annexure No. 5" is a far more portentous and pretentious affair. Indeed, it constitutes about the very end and beginning, the *primum mobile* of his claims to the Cornelius Kok lands—including the diamond fields. All other documents on this side are but produced in support of this. His entire case is based and founded thereon; disprove it, and the claim is destroyed *in toto* !

This document is rather pompous, but ambiguous in title, being termed,—

“Articles of an Agreement between the Griqua Chiefs, A. Waterboer and Adam Kok, and the People.”

Of this notice, or manifesto, which professes to have been “*done at Griqua Town, the 9th November, 1838,*” and to be signed by the chiefs “A. Waterboer and A. Kok,” only three clauses out of its thirteen, viz., the 3rd, 4th, and 5th, have any direct bearing on the case, or have ever been referred to and quoted either *pro* or *con*.

Waterboer and his supporters declare that these three clauses prove that *all* Griqua land was divided between old Andries Waterboer and Adam Kok; they argue, moreover, from the vaguest of vague and utterly unintelligible definitions of boundaries, that the portion of Griqua land so allotted to Andries Waterboer, not only embraced the whole of the Griqua territory north of the Vaal River, but also all that on the south bank (South Adamantia) included within a line drawn from Ramah on the Orange river, to David’s Graf on the Riet, or at the junction of Riet and Modder rivers, and thence on to Platberg on the Vaal River.

From Ramah this line follows about a true north north-east course to Platberg, and is, in fact, none other than what we have seen was really the original boundary line between Adam and Cornelius Kok. Waterboer’s dodge is palpable;—by pretending that Cornelius Kok was *his subordinate*, the lands north of that line would revert to him [or, rather, *should* have done so, for, in point of fact, as we have also seen, they did not]; but at all events he would have a fair *primu*

facie case, depending, however, entirely upon the question of Cornelius Kok's dependence or independence.

As clauses 3 and 4 are similar we will deal with both together:—

"3. The land belonging to *the two chiefs* and their people shall be called Griqua land, and shall be governed by the two present known chiefs, namely, Andries Waterboer, of Griqua Town, and Adam Kok, of Philippolis.

"4. The Land or country *will be* divided in two great portions, and governed by two different governments, each government to have its own lands."

For the sake of argument, we will admit that this treaty or agreement is not a pure invention, but went beyond a mere draft, and once existed, and so will deal with its points, and the inferences derived therefrom by the robbers of the diamond fields, categorically and *au sérieux*.

1. With regard to the conclusion jumped at so hastily by Waterboer & Co., *that all Griqua land* was included and divided by this agreement, I venture to maintain, in the most positive manner, that neither in letter nor in spirit does it do anything of the sort.

(a.) Clause 1, on which the remaining twelve are based, states, "The chiefs and inhabitants of *Griqua Town and Philippolis* will be considered as a nation, and also a connection with each other." *But not a word is said about Campbell, its grounds, or its people!* It is, indeed, quite clearly stated in clauses 3 and 4 that it is certain lands "*belonging to the two chiefs*" which alone are under consideration: neither directly nor indirectly is either word or allusion made to Campbell

and its chief, Cornelius Kok! And "the two chiefs" are named as "A. Waterboer and A. Kok."

(b.) "The land or country," according to clause 4, to "be divided into two great portions," &c., is specifically stated to be that of "the two chiefs;" but not that of Cornelius Kok, whose name is never mentioned in the document.

(c.) Moreover, from the very tense in which the composition is written it is evidently only a *proposed* arrangement; the terms of which either "*shall be*" or "*will be*" carried out, but, at the time *were not*; for it lacks the necessary proclamation as a past or present official enactment by which alone it could become law, and no evidence is adduced to show that its stipulations and agreements were ever executed.

(d.) The utter exception of Captain Cornelius Kok and his territory of Campbell, &c., is very singular and conspicuous; and I do not think that I am straining logical sequence when I say that it was palpably because neither he nor his lands had anything to do with the proposed treaty.

(e.) Even were the document a genuine one, were the whole country inhabited by Griquas meant, and were clauses 3 and 4, originally, at the drafting of the treaty, quite *bonâ fide*; as a matter of fact, it never was executed or maintained; for Cornelius Kok certainly *did* rule as an independent chief at Campbell, *did* dispose of its grounds as he pleased, and *did* make over his territory to Adam Kok, who *did* sell to the Orange Free State what he had so succeeded to (although this latter fact is *now* disputed).

2. The boundary clause must now be investigated.

“ 4. The boundary of the *north-east*^a portion (ruled by Adam Kok, of Philippolis) will be from Ramah, on the west,^b along the boundary of the colony, eastwards,^c to Cornets Spuint, over the Caledon River, and northwards to Modder River.^d The boundary of the western^e portion, ruled by Andries Waterboer at Griqua Town, will be from Ramah, on the east,^f *along the boundary of the colony westwards to Kheis, and northwards to Platberg.*”^g

The grave errors and inaccurate statements of fact in this clause are such as to cause sufficiently strong technical objections to make it worthless—especially considering that no corroborative evidence as to the actual execution and maintenance of the alleged treaty is forthcoming.

(a.) In the first place, by referring to diagram C., Chapter IV., it will be seen that instead of being the “*north-east*” portion of Griqua land, Adam Kok’s territory is the *south-east*; *that of Cornelius Kok being the north-east, though!*

(b.) Instead of Ramah being “*on the west*” of Adam Kok’s territory, it forms just the *north-west apex or corner*.

(c.) The line “along the boundary of the colony” (the Orange River) does not run “*eastwards*,” but *south-east*.

(d.) As this vague boundary of Adam Kok ends “northwards to Modder River” (a stream over 200 miles long), and begins “from Ramah,” it will be seen that no boundary line is given to connect those two widely-separated points. But we have seen by evidence in Chapters III. and IV., and by diagram B, in Chapter III., *that the territory of Cornelius Kok joined that of Adam Kok; that a line was made, in 1840, between them, from Ramah (N.E.) to David’s Graf, on the Riet, or junction of the Riet and Modder rivers; and that this*

demarcation is further proved and stated by the Maitland treaty in 1846; though not a particle of evidence that Waterboer ever owned territory along that line can be found outside this precious "Annexure No. 5."

(e.) Having regard to the known territory of Adam Kok, and the line of the Modder River, instead of Waterboer's ground being the "*western portion*," it is the *north-western*.

(f.) As "*Ramah on the east*" is taken as Waterboer's eastern starting-point (in reality, it was the *south-eastern*), of course it would be absurd and utterly inconsistent for any of his other defined boundaries to extend to the eastward of that. How, then, are we to reconcile, or, indeed, comprehend the sentence "from Ramah on the east, along the boundary of the colony *westwards* to Kheis, and *northwards* to Platberg?" *Platberg on the River Vaal*, immediately opposite to Hebron (and the point now claimed by Waterboer and his coadjutors as the place meant by the term "and *northwards* to Platberg") *being (true) east and by north from Kheis!* It will be seen that the boundaries mentioned in clause 5 of the "agreement" run on consecutively, Adam Kok's commencing at Ramah, and proceeding to the right, or east, Waterboer's also beginning at Ramah, and thence proceeding to the left, or west.

(g.) We are landed at Kheis, but how to get "*northwards to Platberg*" is the difficulty.

Waterboer's friends who desired the diamond fields for themselves, perceiving this dilemma, act thus: they first of all break the hitherto and otherwise regular succession and sequence of the boundary lines *by going*

back again from Kheis eastwards to Ramah, and start afresh from that place so as to get “northwards to Platberg,” the hill opposite Hebron! So they go from *Ramah* northwards to Platberg—a line they expected to nicely cut off from the Orange Free State all the diamond fields, and give those places to them,—instead of proceeding according to the order and wording of the alleged “agreement” on which they seek to establish Waterboer’s right, from *Kheis* northwards to Platberg!

Even by this unauthorized misinterpretation of the so-called “Treaty of 1838,” they go many miles to the east of Ramah; so that this place no longer forms their eastern point (as the treaty asserts it was), but becomes changed to Platberg.

These clever gentlemen, moreover, seem to forget an old proverb, not, it is true, a very polished one, but very *apropos* nevertheless; and which always expresses that sentiment of fair play and justice to which they seem strangers. The aphorism runs that “What is sauce for the goose is sauce for the gander.” Condensing Messrs. Waterboer and Co. into the goose, we will give some of the same sauce to Adam Kok as the gander. We will also deal with his treaty-defined boundary as they dealt with Waterboer’s. Instead of going from “Cornet Spruit,” “northwards to Modder River,” we will go back again to Ramah, and start afresh from there “northwards to Modder River.” To do this we have precisely as much right as they have, and what, then, becomes of their fabricated line for Waterboer, from Ramah to the Platberg on the Vaal River, *which is really more than a hundred miles from any ground ever either owned or occupied by Waterboer’s*

Griquas? Why, that line is cut off and barred at its commencement by Adam Kok's line going "northwards to Modder River," which, from the mutual starting-point, Ramah, goes due north, or exactly at an angle of 40° within the line invented for Waterboer ! because, instead of going straight on to Platberg (which bears due N.N.E., or N. $22^{\circ} 30'$ E. of Ramah), in order to get still further to the east, and so make sure of the diamond fields (the dry diggings lying within a very few miles of this line), *they literally follow the line of 1840 between Adam and Cornelius Kok*, and deflect considerably to the east, so as to get to the point known as David's Graf, which bears N. 40° E. from Ramah !

Taking Waterboer's boundary as described *verbatim* by the alleged treaty, from "Kheis and northwards to Platberg," we can only get north-eastwards to what are now generally known as the Langeberg hills, but which certainly have been anciently known as Platberg also ; which would give a north-west instead of a south-east, boundary, and at the same time perfectly accord with the consistent order and method of enumeration of the boundaries in clause 5. That Langeberg has been known as Platberg, and has been mentioned as such in describing Waterboer's boundaries, is sufficiently proved in the evidence given by Mr. W. O. Corner, at Nooitgedacht, who makes the following statement:—

"The line from Garries" (another name for Koukonop Drift)—"Platberg" (evidently Langeberg), "**was the line between Waterboer and Campbell**, and that between *A. Kok and C. Kok*, between Platberg and Ramah. *I mean Platberg on the river about five hours from where we now are*" (*Nooitgedacht*). *As far as I know, Waterboer had no ground from Platberg to Ramah.*"

But a much more plausible and feasible theory as to

the real direction of this verbal line from somewhere "northwards to Platberg," is this:—Starting, as Waterboer and Co. choose to, from Ramah (instead of going on from Kheis), we would proceed about due N.W. and by N., or N. $33^{\circ} 45'$ by W., to the most northerly point of the Langeberg hills—the "Platberg" of the witness W. O. Corner—and *all the way we would go over exactly the line defined in Diagrams A and D, and so repeatedly described already as that which was made in 1820, by the chief, Adam Kok, between Campbell and Griqua Town; that is to say, between Cornelius Kok and Andries Waterboer.*

This is the *only* way in which the term "northwards to Platberg" can be reconciled with well-known and existing facts—moreover, as we see, it would coincide and agree with an old and indisputable boundary line.

3. The general arguments *per contra*, as a set-off to this alleged treaty on the side of the Orange Free State, are both numerous and forcible. Still admitting its existence as a genuine affair, I deny that it ever went further than a mere draft of a proposed arrangement. But even to admit for a moment that it once did prevail, it is quite certain that whatever boundaries may at that distant period have been decided upon have never been in force since the present Waterboer succeeded his father as chief of Griqua Town, and that, in fact, the treaty must have become obsolete many years ago.

It is quite possible that some such treaty may have been entertained, for in 1837, the year before its professed date, it is well known that Cornelius Kok aided Abram Kok to wage war against his brother,

Adam Kok; with the object of deposing the latter and making Abram Chief of the Philippolis Griquas; old Dam Kok, the brother of Cornelius, and father of Adam and Abram, having lately died. Abram and Cornelius Kok were beaten, Waterboer supported Adam, and what more likely than that the two latter should then have agreed upon an alliance? But we also know, by the testimony of Hendrik Hendrikse and others who took part in those events, that Cornelius Kok was after all pardoned by the victorious Adam, his nephew, through the "intercession" of the former's "friends and councillors;" so that he was not deprived of his chieftainship over Campbell, but, on the contrary, was specially retained and confirmed therein by the making of the line of demarcation from Ramah to David's Graf!

4. No proof whatever, not an iota of corroborative evidence as to the execution, maintenance, and fulfilment of the alleged treaty has been adduced by Waterboer and Co., and surely something more than the mere word of that three or four-quarter caste semi-barbarian is required to refute the overwhelming array of evidence both oral and documentary upon the other side, in proof of the undoubted fact that Waterboer *never* occupied the ground in question; that he *never* exercised even the slightest authority or suzerainship over Cornelius Kok and the territory under the latter's sole rule; that neither Waterboer nor any of the Griqua Town Griquas *ever* held, occupied, or were recognized as even residing upon any ground *within one hundred miles of the boundary point (Platberg on the Vaal) now claimed*; and that *always*, from the day of his appointment, in 1815, to the period, in 1857,

when he resigned his power and Government into the hands of *Adam Kok*, Cornelius Kok was literally and actually the sole and undisputed paramount and independent Chief or Captain of Campbell and its adjacent grounds!

5. Another important objection to the value, legality, and genuineness of the alleged treaty is the fact that none of the surrounding chiefs and states were consulted. It does not appear, nor has Waterboer asserted, that such was done. The treaty really takes the form of a proposed *nudum pactum* between two native chiefs as to their arrangement or definition of their territorial boundaries, in a private and surreptitious manner, without seeking or obtaining the assent, countenance, or approval, without even communicating the intention, to those neighbouring powers and territorial chieftains who certainly had an imprescriptible right to be not alone advised, but to be consulted, and to have as much to say in the matter as the two alleged cosignatories and contractors themselves. As it is quite certain that this course was not adopted, even if genuine, the treaty was illegal. The surrounding states and chiefs were left in complete ignorance of a dividing and parcelling out of land which would very seriously have injured and invaded their inalienable rights, embracing, as the agreement did, large tracts of country never belonging either to Waterboer or Adam Kok, *nor, to this day, ever occupied by either!*

6. Even granting the boundaries mentioned in the alleged treaty to have been really decided upon, in 1838, by the two chiefs, it never gave them more than a mere nominal, pseudo, self-styled right, for it was never acted upon.

Indeed, so patent and irrefragable as to appear a truism to those who have studied and investigated the subject, is the fact that Waterboer *never*, and Adam Kok only since 1857, when Cornelius Kok gave him the authority, either occupied, settled by a single member of their Griqua subjects, or ever exercised any jurisdiction over the greater part of the extensive territory now so fraudulently claimed by Waterboer, and so unrighteously plundered from the Orange Free State by the Cape Colonial Government, by armed force, ostensibly in his interest!

On the contrary, ever since 1840, the white settlers have been regularly and legally acquiring land beyond the line now seized for Waterboer from Ramah to Platberg on the Vaal River;—ever since the establishment of a British Resident's Court at Bloemfontein, (now capital of the Free State), in 1846, and also by the terms of Sir P. Maitland's treaty, the purchase by Free State burghers of Griqua land within that line has been recognized by the British Government;—ever since Sir Harry Smith's proclamation in 1848 of the Orange River Territory as a British Sovereignty have those purchases of Griqua Land upon, and west, and north of that line been recognized by the British Government as perpetual leaseholds, carrying with them from the former Griqua chieftain to the Government of the Orange River Territory, or Sovereignty, territorial and sovereign rights—for which British land certificates were issued and are still possessed;—ever since the abandonment of the Sovereignty by the British Government in February 1854, the convention entered into with the people of that territory, and the formation of the Orange Free State, the new Government

thereof has been responsible by express stipulations "that all previous British subjects would be secured in the possession of their properties," and from that time until the forcible seizure of the diamond fields by British authorities such has been done;—ever since the making of the Vetberg line in 1855 (by virtue of purchase of the ground from Cornelius Kok), Free State subjects have owned and occupied the land up to that line, and their Government has exercised undisputed jurisdiction over the territory so defined and inhabited;—ever since the sale of all remaining "open ground" by Adam Kok, in 1861, the Government of the Orange Free State has alone been known, has ruled without interference, and its law courts have exercised supreme, unquestioned jurisdiction up to Albania (or the Vetberg line, its boundary), and to the banks of the Vaal River! All these facts are undeniably proved by the evidence we have previously quoted from the official correspondence of the British Residents, Major Warden and Mr. Green, Attorney-General Porter, Sir Harry Smith, Sir George Cathcart, &c.

7. To reason by analogy, if "Annexure No. 5" is to hold good, so also would any unattested copy of any draft agreement Waterboer might produce purporting to have been entered into at some equally distant period, unknown to every other surrounding and interested state or government, between himself and Adam Kok, or any one else, including and dividing between themselves the whole of Africa, whether occupied by savages, unoccupied, or held by civilized white and Christian nations, providing British bayonets were forthcoming to support their vague, unjust, and amazingly preposterous claim! In fact,

the principle established by the enforcement of the alleged agreement is that it is only necessary for diamonds or anything of value to be discovered anywhere in South Africa, for Great Britain to step in, and seize the territory, providing a puppet like Waterboer can be put up as claimant, and the actual possessors are a comparatively weak and non-military power like the Free State!

That my supposition is not extravagant is clear, for the line of Ramah *viâ* David's Graf to Platberg, now held (upon the false pretence that it is for Waterboer) by the Cape Colony armed and mounted frontier police force cuts off no less than ONE HUNDRED AND FORTY-THREE (143) FREE STATE FARMS! *about half of which territory has been for TWENTY YEARS, part for various periods, and the remainder for ELEVEN YEARS, to all intents and purposes DE FACTO Free State soil!* whilst of the one hundred and forty-three farms, THIRTY-THREE are held by British land certificates granted (mostly as renewals) during the period of the Sovereignty! *

8. After all, the only sort of evidence to be derived from "Annexure No. 5" is negative (a difficult thing to prove, by all accounts); as it is sought, thereby, from the absence of any mention of Cornelius Kok and his lands to imply that, therefore, he was a subordinate, and his property and Chieftainship were Waterboer's!

9. Once more, *per contra*, as an effective set-off against this alleged treaty, which (if an original really be in existence at all) has been raked up from some long-forgotten hiding-place, probably by Mr.

* *Vide* p. 170, Capetown Blue Book, for Despatch from President Brand, dated Bloemfontein, 9th March, 1871.

David Arnot's ingenuity, let us consider another document, also an alleged treaty, entered into between Cornelius Kok and Jan Bloem, on the "8th of August, 1840."

Copy of this treaty* has been put in evidence by President Brand and the Executive Government of the Orange Free State—a better authority, I venture to opine, than the unsupported testimony of the Chief, Nicolas Waterboer.

The "1st, 2nd, and 3rd" clauses will be sufficient for our purpose :—

"1st. We the undersigned chiefs in council, accept of the immigrated colonists now amongst us on these grounds" (South Adamantia) "as our friends and allies. . .

"2nd. We declare it is with our consent that the line (a) from Ramah, with a straight line to the junction of the Modder and Riet rivers" (the spot known as David's Graf) "and thence on to Platberg on the Vaal River, up along the Vaal River to the Tickwas River, has been fixed, which line between our Northern tribes shall be the boundary line for the colonists herein alluded to. . .

"3rd. We will acknowledge Mr. A. Oberholster as chief and ruler over these immigrated colonists, and will ourselves shew every respect to his field-cornets, joint rulers."

Now these clauses give the first and only consistent and accurate definition of the line (a) from Ramah to David's Graf, and on to Platberg (on the Vaal River), to be found in the correspondence and evidence on either side. It coincides with the evidence of all the witnesses in favour of the Free State; it agrees exactly with the making of the line in the same year, 1840 (see Diagram B, Chap. III, &c.), between the Captains Adam and Cornelius Kok; with the line as corrobora-

* Vide p. 137, Capetown Blue Book (No. 1, 1871), for Translated Copy of this Treaty.

rated by "Article 5" of the Maitland treaty in 1846; and with the treaty entered into on the 16th June, 1840, between the immigrant colonists, under Mr. Oberholster, and the Griquas of Philippolis! Moreover, its genuineness is attested by the Government of the Orange Free State, and by "Mr. F. Rex, sworn translator," who testifies to the existence "of a copy in possession of the Chief, Adam Kok."

It is signed by: " CORNELIUS KOK, Captain.
 JAN BLOEM, Captain.

And by: (Council) GERT BEKUS,
 WILLEM KOK,
 GERT KOK,
 JOHANNES DE Wee."

10. Perhaps, after all, the most conclusive argument against this concocted or resuscitated "agreement" is a technical objection—one that would certainly be deemed sufficient to put the suitor thereon out of court by any civilized tribunal. President Brand, both at the meeting at Nooitgedacht, and subsequently during his correspondence with Waterboer's British supporters, very justly remarks, "that the best of all documentary evidence is the production of the original." This he challenged Waterboer to do, and the Griqua Chief, so far as I can ascertain, has never yet complied; failing which, the next best evidence would have been a sworn deposition as to the existence and whereabouts of the original document, and the production of a properly-attested copy, which has not been done either, the copy produced purporting to be signed only by "A. Waterboer and A. Kok." Will it be believed that, under these circumstances, General Hay, acting

Governor of the Cape Colony, in September, 1870, at once accepted Waterboer's view, and upon the unsupported *ipse dixit* of this claimant to the diamond fields actually proceeded to enforce the terms of that at least dubious, obscure, and ancient document against the Orange Free State, although well aware that President Brand and his Government utterly deny and repudiate the genuineness and very existence of any such original treaty?

In concluding this review of "Annexure No. 5," laid over in support of Waterboer's case, I must state that the Government of the Free State possess numerous original documents of an exactly opposite nature, many of which, instead of quoting now, I shall have occasion to refer to when rebutting some of the Colonial Government's arguments in support of Waterboer's case further on.

CHAPTER IX.

ANALYSIS OF THE DOCUMENTARY EVIDENCE PRODUCED BY WATERBOER, AT THE MEETING AT NOOITGEDACHT, IN SUPPORT OF HIS CLAIM TO THE FORMER TERRITORY OF THE LATE CORNELIUS KOK, CONTINUED :—

2. ONE OF THE LATE A. WATERBOER'S SANCTIMONIOUS EPISTLES REFUTED.—3. A. WATERBOER'S REPLY TO THE COLONIAL SECRETARY'S QUERIES AS TO HIS BOUNDARIES, &c., 1845; WHICH DOCUMENT, THOUGH PRODUCED BY N. WATERBOER, PROVES THE FREE STATE CASE.—4. ADAM KOK'S REPLY, WHICH IS OF EXACTLY THE SAME NATURE AND EFFECT AS THE FORMER.—5. A FALSE INTERPRETATION EXPOSED.—6, 7, AND 8. WATERBOER AND CO.'S DODGE TO SWELL THEIR DOCUMENTARY EVIDENCE BY UTTERLY IRRELEVANT MATTER EXPOSED.—9. MAJOR WARDEN'S REPORT INIMICAL TO WATERBOER'S CASE: IRRELEVANT AND INEFFICIENT NATURE OF THE DOCUMENTS, ANNEXURES 17 TO 39.—10. REFUTATION OF THE ALLEGED TREATY AND SUPPLEMENT WITH MAHURA.—11. ANNEXURES 41 TO 53 SHOWN TO HAVE NO BEARING ON THE CASE.

2. "*Annexure No. 6*" purports to be the "copy" of "Extracts of a letter from the late Chief, Waterboer, dated Griqua Town, 11th December, 1832, addressed to the Rev. Mr. Wright."

Anyone acquainted with the character and proclivities of the modern Griqua would certainly deem this curious epistle a mere tissue of pharisaical humbug, hypocrisy of the Stiggins' school, slightly adulterated with sundry political notions. The late chief was

known as the pet production of the missionaries, and no doubt gladdened the hearts of the elect in those days, by writing that he—

“ Considered the whole power of the Griqua’s Captain as a delegated power, to be assumed for the benefit of the people, and the spread of the Gospel in the country, and among the heathens beyond the Griqua country.”

Tell it not in Gath! But, alas, that I should have to so supplement this excellent sentiment! The Griquas of these degenerate days think more of “Cape smoke” than converting the heathen or anything else.

Although a private letter written *forty years ago* can hardly be worth a moment’s consideration, still, as the Cape Town luminaries, in order to suit their own occult purposes, have chosen to countenance, and now, for the very first time, enforce (by the power of British bayonets) the false, exaggerated, and hitherto unknown terms, and equally obscure little individual arrangements propounded in these ancient, obsolete, and extremely dubious documents, it has become necessary, in the interests of truth and justice, to deal with and refute every point advanced.

I need hardly observe that even a private letter, written by an interested individual *to-day*, unattested, unsworn, and depending entirely upon the writer’s will and moral character for its truthfulness or falsehood,—especially when his statements, if believed, would make him a much more important personage than he ever was, and give to him an extensive tract of country hitherto the property of another,—would scarcely be received in any civilized law court as evidence.

Old Andries Waterboer wrote (and the letter seems genuine)—

Extracts from the letter.

"In the year 1816, Cornelius Kok, the present Chief of Campbell, came to the Griqua country . . . On his arrival he was not in possession of any fountains or lands of his own, but *was granted* (a) some agricultural privileges or sufferances, owing to the Chief, Adam Kok, abandoning Griqua Town and going to reside at Black " (the Orange) " River."

"I was chosen Chief in 1820, by the people, in Adam Kok's stead; this choice was recommended by the missionaries and approved by the directors of the London Missionary Society, and received the sanction of the Colonial Government in 1822."

"In 1824, I thought (a) it a desirable thing to have a Chief at Campbell, to preserve order in the country, and to promote the interest of the missionary labours in that district. I thought it advisable, with the concurrence of the missionaries and the people, to recommend

Remarks thereon.

(a) The question is, By whom were those "privileges granted?" We have seen that at that time Adam or Dam Kok was the head Griqua Chief, but that in 1816, when he appointed "*Kort*" Adam Kok to Griqua Town, he also left Cornelius Kok (who had been previously appointed) as *Chief of Campbell*. Waterboer was then merely a messenger, so that Cornelius Kok's grants or appointments could not have come from him.

Dam Kok, having disagreed with the Missionaries, appointed A. Waterboer as successor to "*Kort*" Adam Kok, whom, we have previously seen, he first established as his successor, when he left Griqua Town. As A. Waterboer became Chief only in 1820, *he could not* have granted anything to, or appointed Cornelius Kok in 1816!

(a) No matter what A. Waterboer "thought," all the evidence we have adduced proves that Cornelius Kok was, in fact, appointed by his father, old Cornelius Kok, and his brother, Dam Kok, and that the former never had anything to do with him. (b) Moreover, it is not

(b) Cornelius Kok, as Chief of Campbell, and an application being made by me to the Colonial Government to sanction the appointment, the Government was induced to accede to the proposal, and since that period he has continued to sustain the designation of Captain of Campbell."

even asserted by A. Waterboer that *he appointed* C. Kok, only that he "recommended" him; whilst the inference to be derived is, that the Colonial Government made the appointment. Besides which, not a word is said to the effect that Cornelius Kok was Waterboer's subordinate, or under chief, or in any way dependent upon or inferior to him, though it is very clearly stated that he became and remained the Captain of Campbell!

3. *Annexure No. 7* is an important document; for that it is genuine there seems no doubt. It is a letter from old Andries Waterboer, dated Griqua Town, 29th July, 1845, in reply to a series of questions which had been communicated by a despatch, dated 18th April, 1845, from the Colonial Secretary (Mr. Southey?) at Cape Town.

Upon perusing this document I was not a little astonished to perceive that instead of being of any value or support to the present Nicholas Waterboer's unjust claim to the diamond fields, &c., a very cursory examination proved it to be exactly the reverse; so much so, indeed, as to make me believe that it can only have been put in as part of the case either by mistake, or with the idea that it would apparently swell the evidence, whilst those (the Cape Government in particular) to whom it was to be produced would neither be too critical, nor personally possess much knowledge of the subject.

Paragraph 1 gives the boundaries of Griqua land, or Waterboer's territory :—

“ 1. The boundaries of the territory over which I preside are the following : ON THE EAST, *between the territories of the Chief of Philippolis and my own*, IS RAMAH, distant about 90 miles from Griqua Town; on the north, the line cuts between Daniel's Kuil and Koning, about 70 miles from Griqua Town; on the west Kheis is the boundary, about 100 miles from Griqua Town, and on the south my boundary runs as the northern boundary of the colony ” —*i.e.*, along the north bank of the Orange River.”

By referring to Diagram A, (and D, Chapter XIV.), it will be seen at a glance that the boundaries defined by old Andries Waterboer are precisely the same as those described by the witnesses for the Free State as having bounded the late Cornelius Kok's territory on the west; precisely those which we have so frequently adduced as the distinguishing lines between the territory of Griqua Town and the Campbell lands; and precisely those for which the Orange Free State contends!

Ramah is distinctly given as the eastern boundary (though, being a place, it would more correctly have been mentioned as the eastern or south eastern point) between Waterboer and “the territories of the Chief of Philippolis.” There can be no escape from this conclusive fact. *No mention whatsoever is made of DAVID'S GRAF; no such word as PLATBERG appears anywhere either in the boundaries defined, or elsewhere in the document; yet this is an official paper, apparently authentic, and of which the original should exist among the Cape Town archives! How, then, can Waterboer and Co. concoct the false line from Ramah, via David's Graf, to Platberg? Why, astounding as the assertion must seem, solely upon the authority and foundation of the one sentence,*

“and northwards to Platberg,” which occurs in the alleged “Agreement” (*Annexure No. 5*) we reviewed in the last chapter!

Instead of abiding by the terms of a seemingly undoubtedly genuine, recognized, and executed official document, Waterboer and his allies fall back upon the most vague, ambiguous, and incomprehensible sentence in a most dubious, and certainly never known or fulfilled treaty! And from which, even then, they have no excuse for dragging in the midway point of David's Graf,—that place never once being named in the document!

The latter portion of paragraph 1 (*Annexure No. 7*) if possible still more plainly settles the eastern boundary of Waterboer, and confirms, beyond a doubt, the view or theory by which I am guided just here—viz., that Andries Waterboer in this document considers and refers to the Griquas under Cornelius Kok also, when he mentions the Griquas of Philippolis, or those under the Chief (Dam Kok in those days) of Philippolis. The clause I especially refer to is this:—

“The nations residing against my boundaries are, *on the east, the Griquas of Philippolis*; ON THE NORTH-EAST, A TRIBE OF KORANAS.”

The remainder of the paragraph only relates to the tribes on the “north, south, and west,” with which we are not concerned.

Now, we have already seen that Ramah is given as the eastern point or boundary of Waterboer's territory; that he fully recognized and admitted the old line of demarcation between Griqua Town and Campbell as the continuation of that eastern boundary, and also included the Griquas of Campbell with those “of Phi-

lippolis," is fully proved by the statement that he was bounded "on the north-east," by "a tribe of Koranas"—*those Koranas being the people under the Chief Barend Barendse,** who were separated from Waterboer's grounds by a boundary line running on in continuation of the old line between Griqua Town and Campbell, but who subsequently went under the sole government of Cornelius Kok, to whom, indeed, their chief was always subordinate, their territory being that immediately adjoining the Campbell lands on the north.

The chiefs of Campbell and Philippolis were brothers; they were the only hereditary chiefs of the Griquas, from whom Waterboer's subjects had seceded; both had been appointed by their father, the last supreme chief, and it would have been strange, indeed, if at that early period, before any divisions or separations could have occurred between them (None have been asserted, either, by documentary or sworn evidence!) Waterboer had written of them as two distinct nations.

Paragraph 2 clearly disproves the most important point, the entire case, in fact, as put forth by the present Waterboer and his abettors,—viz., the assertion that Cornelius Kok was appointed Chief of Campbell by old Andries Waterboer, and only ruled as his deputy or subordinate!

"2. My subjects are of different tribes . . . *There are chiefs over the various tribes who have the charge of surveillance over them from me; their names are, of the Koranas, Witbooy and Klaas; of the Bushmen, Tebe; of the Batlaroos, Samechos; and of the Basutos, Katlane.*"

How is it that no mention is made either of Cornelius Kok, or the people of Campbell? Simply, of

* See diagrams A and D for the territory of the Korana Chief, Barend Barendse.

course, because Waterboer had nothing at all to do with them !

Three clauses of paragraph 3, and last, just as effectually prove that Waterboer's territory never extended beyond the lines defined by this authentic document, viz., those marked in Diagrams A and D, as the original Griqua boundary in 1811, and the line between Campbell and Griqua Town of 1820, and which are also those maintained by the Orange Free State.

The first clause states :

"The lands which are built upon are by our laws acknowledged as the property of the occupiers, still they cannot sell to strange persons without consent from myself and raad, neither can I, as chief, alienate any land to other persons without consent of my people, made known through a general meeting."

Now, as Cornelius Kok and *his* people always *did* sell their land to "strange persons," whilst it is an equally well-known historical fact that neither Waterboer nor his subjects ever did, the complete independence of the two chiefs and tribes could not be better illustrated.

The second clause gives a list of Waterboer's "principal" *kraals* or villages, nine in number ; *but Campbell is not amongst them*, although it was the second, if not indeed, the first of the Griqua villages, and was certainly quite as populous and important a place as Griqua Town itself !

The third clause contains the statement :—

"I have to say that there are no emigrant farmers in my territory, that I have made no agreement with them, and no intercourse has taken place between them and my subjects."

From this very positive and distinct statement it is placed beyond question that Waterboer had nothing

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whatever to do with that large portion of South Adamantia—formerly under the nominal ownership of Bushmen; of Captain Adam Kok, and Captain Cornelius Kok—now so audaciously claimed by his son Nicholas Waterboer; because, at that time, 1845, these lands were (and had been for many years) occupied by *boers* or emigrant farmers. A reference to pp. 30 and 31, Chapter II., will effectually prove the fact by the official reports of the British Residents, Major Warden and Assistant-Commissary-General Green; the former of whom states that—

"The Van Wyk's country (between the Vaal and Modder rivers) was purchased by BOERS many years ago from the Bushman Chief Dantzer;"

Whilst the latter also asserts that the emigrant farmers,

"Under Fourie, obtained in the same manner . . . an extensive tract of country to the westward of Bloemfontein, between the Modder and Vaal."

Moreover, the following extract from a "Government Notice," dated "Government House, Cape Town, January 29th, 1850," still further proves that the country within the boundaries claimed by the Orange Free State, and up to those marked in Diagrams A and D, as claimed by Andries Waterboer, was actually in the possession and occupation of emigrant farmers:—

* "Some persons . . . have lately striven to spread a report that in three years, or some other term, the farms occupied by emigrants beyond the Riet river and Kromelboog Spruit (that is to say, in the alienable, as contradistinguished from the inalienable territory . . .) are to revert to the Griqua government or people. There is no sort or shadow of ground for any such report. . . . The lands in question are vested for ever in Her Majesty the Queen of England, and no idea of their reverting to Captain Adam Kok has ever been entertained." . . .

* Vide p. 82, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope."—London, 1871.

Those lands—up to the Vaal River, indeed,—were subsequently made over in their entirety, by the convention of 1854 (quoted *verbatim* at the end of Chapter III.) to the government of the Orange Free State.

In concluding this review of *Annexure No. 7*, in support of Waterboer and Co.'s case, I cannot but express unbounded surprise at its production. As I have accepted all and every of the statements made therein, no one can possibly imagine that I have been hypercritical, or even in the faintest degree captious; yet every clause of that document absolutely corroborates the case I advocate! It seems extraordinary. And although, so far as the British authorities are concerned, neither proof nor document, of whatsoever character, need excite surprise, since they have adopted the simple old maxim that "might makes right;" still it is difficult to understand how Waterboer and his "*fidus Achates*," David, can have put forward such a paper as evidence in their favour.

Altogether *Annexure No. 7* is very important, for, to the best of my judgment, it actually constitutes the only relevant and undoubtedly genuine and authentic document produced on Waterboer's side.

4. *Annexure No. 8* is a copy of Captain Adam Kok's reply to a set of questions similar to those put to Waterboer by the Colonial Secretary, and answered in the document, *Annexure No. 7*. Beyond the first short paragraph it does not contain anything either important or relevant to the disputed ownership of Adamantia. But that paragraph fully confirms not only the definition of boundaries in *Annexure 7*, but also the

criticisms passed thereon by the writer. It is as follows:—

“1st. The territory claimed by my people is bounded on the south and south-west by the Orange River; *on the north and north-east by the Modder River*; on the east by the country of Lepui; and *on the west by that of Waterboer.*”

A reference to Diagrams A and D will at once show the coincidence between the definition of boundaries by Adam Kok and Waterboer. The latter says, “On the east, between the territories of the chief of Philipopolis, and my own, is Ramah.”

“On the west,” that is to say, on the other side of Ramah, Adam Kok places Waterboer's Griquas; and he further gives a separate and distinct boundary—“on the north and north-east by the Modder River”—on the frontier of the ground now claimed by Waterboer's son! Who was at the other side of the Modder River? Certainly not Waterboer, for he was “on the west.” But have we not seen that the line from Ramah to David's Graf was drawn, about the year 1840, by Adam Kok, between himself and *Cornelius Kok*? Have we not also seen that this line was subsequently endorsed and inserted in Sir Peregrine Maitland's treaty, in 1846, and was further accepted by Sir Harry Smith and successive governors of the Cape Colony? And have we not seen that in 1855 the famous Vetberg line was made from the Modder River to the former line, by Captain Adam Kok, between Waterboer and *Cornelius Kok*—the latter being left as sole and independent chief over the territory north of the line from Ramah to David's Graf, east of the Vetberg line, and *north of the Modder River*, from its junction with the Vaal, to David's Graf, at its confluence with the Riet River?

How far easterly Cornelius Kok's territory ever extended, north of the Modder, it is impossible now to ascertain, although he formerly claimed a line from Ramah, on the Orange River, to Platberg, on the Vaal. Moreover, it is well known that the northern part of this territory—South Adamantia—was in the possession of Bushmen, certainly from Pniel to Platberg, so late as the year 1852. But it is equally clear that Pniel itself, or rather the ground which subsequently became known as the Pniel Mission grounds, did in 1857 belong to Cornelius Kok; and that he sold the same, in that year, to the representative of the Berlin Missionary Society. Here follows an extract, extremely *apropos* to the matter, from a letter written by that gentleman, the Rev. C. F. Wuras, to the Free State Government, bearing date “Bethany, 10th January, 1871” :—

“2nd.—Before I bought the Pniel ground, I thoroughly investigated to whom the land belonged. By general consent of Korana Chief, Jan Bloem, and all the Korana tribes who lived there, the owner was the Chief, Cornelius Kok. *Waterboer's name was not even mentioned at that time.* And also the farmers, who had bought places in the above-named territory from Cornelius Kok, acknowledged him as the rightful owner.

“3rd.—Since the establishment of the Berlin Mission Station, Pniel, 25 years ago, the Chiefs, Waterboer, neither father nor son, have laid any claim whatever to the Pniel grounds.”

The above extract is sufficiently plain and positive—it requires no comment; yet the Pniel grounds, with the lands purchased since 1837, from Bushman chiefs; the greater part of the alienable territory bought from Adam Kok, of which transfer was confirmed by the then British authorities; as well as the principal portion of the lands sold by Adam and Cornelius Kok;

all east of the Vetherg line, and north of the Medder River; are claimed by Nicholas Waterboer, and have been seized for him, *vi et armis*, by the Cape Government, who arranged matters so that *they* retain the land, not Waterboer, since diamonds were discovered!

Annexures 9 and 10 have absolutely nothing at all to do with Waterboer's case, being the treaty made in 1843 between Adam Kok and Sir George Napier, and the Maitland treaty of 1846, also made with Adam Kok.

Annexures 11 and 12 are equally irrelevant, and as they never have been quoted by Waterboer's advocates, and certainly never will be, we need not trouble about them, the 1st being page 211 of the Blue Book, "Kaffir Tribes," 1851, which does not concern Waterboer; and the 2nd being an alleged supplement to the alleged and spurious "Agreement," *Annexure No. 5*.

Annexure No. 13, however, having been referred to in the correspondence between the Free State and Colonial Governments, though really unimportant and not relevant to Waterboer's preposterous claims, must be noticed.

5. *Annexure No. 13* is the copy of a proclamation issued by Captain Adam Kok, dated "Ramah, the 26th November, 1848":—

"Whereas several of the inhabitants of the district of Philippolis have . . . established themselves in different portions of the district of Campbell and Griqua Town, consequently beyond the jurisdiction of the Courts of Philippolis, so full right and authority is hereby given to Captain Andries Waterboer, in case any Griqua subject of Philippolis should make himself guilty of any crime *whatever within the jurisdiction of Griqua Town*, to prosecute and punish such persons according to the existing law."

The above document is given and cited as proof that Captain Adam Kok gave and acknowledged right over Campbell and its Chief, Cornelius Kok, to Waterboer! But any ordinary being, *compes mentis*, can see that, whereas two distinct "*districts*," viz., "*Campbell and Griqua Town*" are mentioned in the preamble, yet Waterboer is just as clearly and succinctly given power over Adam Kok's subjects, only in *one of those districts*, viz., his own "*within the jurisdiction of Griqua Town*." Where, by what words, is he given power over those in the Campbell lands under Cornelius Kok's jurisdiction?

6. *Annexure No. 14* is simply a copy of the D'Urban treaty of 1834, which we have frequently referred to, which we have proved terminated by the death of Andries Waterboer, when by official papers we have previously quoted, the Colonial Government distinctly refused to renew it with the present Waterboer, and which, moreover, contained nothing whatever bearing upon the present case, except the mention of "*Ramah*," as Waterboer's "*eastern boundary*;" and that, of course, is directly adverse to the present claims put forward in his name to grounds *far to the east of Ramah*!

7. *Annexure No. 15* is also evidently produced by Waterboer and Co. to swell the quantity of documentary evidence they produce, but certainly not the quality. It is actually neither more nor less than Sir Harry Smith's obsolete and superseded proclamation of the Orange River Sovereignty on the 3rd February, 1848!

It was partly revoked by that Governor's subsequent

proclamation* bearing date "14th March, 1849," declaring that it and "any other former proclamation shall be, and the same is hereby revoked accordingly."

Neither in the old nor the new proclamation can any such word as Waterboer be found. So why that individual produced the former as evidence in favour of his fraudulent claim to the diamond fields deponent knoweth not, neither can he imagine, except for the motive as hereinbefore stated.

8. *Annexure No. 16* must be treated exactly as its predecessor. It consists of several references to Blue Book, "Orange River Correspondence, 1851-4," the first being the regulations of Sir Harry Smith's proclamation of 14th March, 1849, above referred to; a memorandum by native chiefs, and a despatch from Earl Grey, in all of which, literally and absolutely, not one word occurs concerning Waterboer, or his claims, either directly or indirectly!

9. *Annexures 17, 18, and 19* are not relevant to the case. *No. 17* is a letter from Adam Kok to Major Warden, 21st November, 1850. Contents stating that the beacons as erected along the line between Ramah and David's Graf were not in a straight line. But what has this to do with Waterboer's case—he never having had any concern in or connection with that line?

No. 18 is a "letter from J. Allison, Clerk to the British Residency, to Captain Waterboer, dated 17th July, 1850." Contents requesting a meeting on the 24th July, at Kameelfontein, with the object of con-

* *Vide* p. 3, Blue Book, "Orange River Correspondence, 1851-4."

sulting about grounds which require an immediate settlement.

No. 19 is a "letter from A. Waterboer to Major Warden, 6th August, 1850." Contents notifying his regret at not having met Major Warden on the 24th.

As these letters are only about a proposed meeting which never occurred, they, of course, are nugatory. Moreover, from other evidence, especially the next *Annexure*, No. 20, we find that the grounds or boundaries therein referred to were within Albania—within the limits afterwards defined by the Vetberg line, which the Free State does not dispute, but wishes to maintain.

Annexure No. 20 is the report from the British Resident, Major Warden, dated "Bloemfontein, August 3rd, 1850," to the Governor of the Cape Colony, to which we have already several times referred, and had occasion to quote, in previous chapters. How Waterboer and Co. can adduce it as evidence in *their* favour is simply incomprehensible, for it really contains invaluable corroborations to the entire claims of the Free State! From it we have quoted passages (1) proving the purchase of the "Van Wijks country"—lying between the Vaal and Modder rivers—from David Dantzer, by the *boers*—ground now claimed by Waterboer and Co.; (2) disallowing Waterboer's claim, even to Albania, in which he states that neither Waterboer nor Cornelius Kok "can establish much claim by right of occupation," and that "that part of the country may be viewed as wastelands;" and (3) declaring that "both Waterboer and Kok are chiefs residing with their people *beyond the*

Vaal River ;” (4) the fact that Cornelius Kok was an independent chief, and that Major Warden met him, and always recognized him as such, is most fully illustrated throughout this official document, which Messrs. Waterboer and Co. have so foolishly included amongst evidence produced to prove exactly the reverse !

As we have previously explained, the claims of both Waterboer and Cornelius Kok were first admitted and made legal, so far as any land south of the Vaal was concerned, by the Government of the Orange Free State, Waterboer being recognized as Chief of Albania, and Cornelius Kok as Chief of the land east of that territory (as defined by the Vetberg line), and north of the Modder River.

Annexure No. 21 purports to be a copy of a letter addressed by the late Andries Waterboer to Governor Sir Harry Smith, dated “Philippolis, 24th May, 1851.” This document we have already fully reviewed, pp. 74-80, Chapter IV. It contains the first apparently authentic claim ever put forward by A. Waterboer to land south of the Vaal, to Albania ; and we have seen that Sir Harry Smith, and all successive Governors, disallowed it in those days. *It is only since the discovery of diamonds* on this ground that, in 1870-1-2, those two enlightened gubernatorial luminaries, General Hay and Sir Henry Barkly, have suddenly discovered, after the lapse of 20 years, that this *unproved assertion* really constituted a valid claim to what has been for even a longer period, *de facto* and *de jure*, part and parcel of the territory which, since 1854, became known as the Orange Free State !

Annexure No. 22 is a copy of the Rev. Mr. Solomon’s

deposition in favour of Waterboer; but it is not a very wise production; for, instead of applying to any part of the ground claimed by his *protégé*, it only concerns Albania! Here is his own definition:—

“During the whole of the time that I was at Griqua Town, Waterboer’s right to the ground now in question, that enclosed between the Vaal River on the west, *Modder River on the north*, the Orange River on the south, and a line drawn from Ramah to David’s Graf on the east, was never to my knowledge disputed more than once!”

A reference to any of our diagrams will show that the land thus described constitutes Albania—not that which is in dispute—except, indeed, a small strip of ground between the Vetberg line and the Modder River, containing a portion of three farms only, whereas the line from Ramah to David’s Graf and Platberg claimed by Waterboer and Co., and seized by the Colonial Government, cuts off 143 Free State farms!

As Mr. Solomon’s deposition has been already fully discussed in Chapter IV., we have not any further remarks to make thereon.

Annexure No. 23 consists of a chart of the “line from Ramah to David’s Graf;” and we have seen that, until by the making of the Vetberg line, which gave him ground from it to Ramah, Waterboer never had any interest therein.

Annexure No. 24 is given as copy of a letter from “J. W. Spruit Esq., Free State Government Secretary,” dated “Bloemfontein, 14th June, 1856, to the Griqua Captains, Adam Kok and Andries Waterboer” (who, however, had then been dead for four years!); but, as this letter simply points out that two and a half Free

State farms are cut off from that State by the newly-made Vetberg line, viz., the farms Driekops Pan, Waterbank, and Scholtzfontein, instead of supporting Waterboer's case, this document, by mentioning, recognizing, and maintaining the Vetberg line, is again entirely favourable to the Free State claims, which are founded partly upon the existence of that line (which Waterboer and Co. deny!), and which assert, moreover, that that line bounds the State on the west, whilst Waterboer and Co., swearing that such a line never existed, have, by force, substituted that from Ramah *vid* David's Graf to Platberg.

Annexure No. 26 is a letter from the President of the Free State to Governor, Sir George Grey, upon exactly the same subject, asking for his opinion. This letter we have fully noticed in Chapter IV. The above remarks on No. 24 equally apply to it, and to—

Annexure No. 27, the Governor's reply, referring to the question as "the satisfactory settlement of the boundary lines in the Griqua territory," and which is also fully discussed in Chapter IV.

Annexure No. 25 purports to be a copy of a letter from Captain Adam Kok to Waterboer, dated 8th July, 1856, it is certainly not relevant or favourable to the latter's trumped-up case. The only part which has any bearing whatever upon either side is the preamble:—

"With these few lines I send you . . . a letter coming from the President" (of the Orange Free State). "I have also got one of the same contents, upon which I will not send a reply until I have seen your answer. *He writes about the line fixed between Campbell and Griqua Town.*"

Why, here again, Messrs. Waterboer and Co. are benighted enough to put in evidence a document which

states and admits another line which they have the hardihood to deny as having ever existed !

Annexure No. 28, like nearly the whole of Messrs. Waterboer and Co.'s documentary evidence, has absolutely nothing whatsoever, nothing directly or indirectly, to do with that chief and his case ! It is merely put in to swell the evidence. It is a despatch * from the " Duke of Newcastle, to Sir George Clerk, dated 14th November, 1853," instructing the latter as to the abandonment of the Orange River Sovereignty. Waterboer's name is never mentioned, and not one word therein concerns him, nor did he ever have anything to do with the former Orange River Sovereignty.

Annexure No. 29, given as a copy of a letter from Captain Adam Kok to Captain N. Waterboer, dated Philippolis, 30th August, 1858, simply contains the former's advice to the latter to pay Sir George Grey a visit:—

" Now it is my wish that you also personally could speak to the Governor respecting that portion of your country what the Free State claims."

This, like most of Waterboer and Co's. documentary evidence, is an unknown, unattested, and non-verified paper. If, however, genuine, it only contains an individual assertion that some land dispute then existed between Waterboer and the Free State; and we have previously shown that about that time the only land disputes were caused by the gradually increasing and unfounded claims put forth by Waterboer to ground beyond his well-known boundaries, beyond Albania, and even north of the Modder River.

* *Vide* p. 87, Blue Book (No. 3), " Orange River Correspondence, 1851—4."

Annexure No. 30, "letter from President Pretorius to Captain N. Waterboer, 28th April, 1862,"—Contents—

"Informing him that the Landdrost of Fauresmith had issued warrants for the apprehension of some thieves, and requesting their extradition, and informing him that he saw clearly that it was most difficult for him to exercise his authority *on the south side of the Vaal River*, and suggesting a conference on the subject."

This paper would have been too unimportant to notice had it not been quoted by the British backers of Waterboer—General Hay and Governor Sir H. Barkly—as evidence that the Free State had formerly admitted Waterboer's rights to what he now claims south of the Vaal! "South of the Vaal" is an indefinite expression, and has been wilfully perverted to suit sinister purposes in this case. What that letter really applied to, as I am instructed by the Free State Government, and as the then notorious existing facts historically prove, was to Albania. We suppose that Waterboer assumed "authority" over that ground which lies "south of the Vaal," although at the same time, be it remarked, we are quite aware that his authority was merely an abstract theory, until British bayonets, in 1871, came ostensibly to support him, but, in reality to effect the robbery of the diamond fields for the Cape Government!

Annexure No. 31.—Copy of a letter from the Government Secretary of the Free State to Waterboer, dated 25th November, 1863, notifying that a commission had been appointed to investigate the case of violence which had been perpetrated on Mr. W. A. Greeff, and to try and arrive at a settlement of the line question.

There being nothing definite as to the "line question," or any other, in this document, it is quite unimportant, and contains no point to argue *pro* or *con*.

Annexure No. 32, a letter from Governor Wodehouse's Secretary to David Arnot, 3rd Dec., 1863, bearing only on the proposed arbitration of his Excellency, which never came off, between Waterboer and the Free State as to their respective claims to the *Campbell lands*, not the territory south of the Vaal, which the Free State from the date of its existence has ever held and owned up to the Vetberg line.

Annexures No. 33 and No. 34, a sketch and a letter from the Free State Government Secretary to David Arnot, dated 30th November, 1863. I regret being unable to deal with these two annexures, as I have not copies of the "sketch" and letter; but as they were supplied by the Free State Government they must have been in support of their case, not Waterboer's.

Annexure No. 35.—This document is a literary curiosity,—what it is, what it means, or even what it was intended to be about, being an impenetrable mystery. I venture to opine, however, after considerable deliberation, investigation, and waste of time, that it is either a circular letter of condolence, of congratulation, or proposal, from old Andries Waterboer's Raad, anent the pretended treaty or agreement, *Annexure No. 5*, of which we disposed in our last chapter. "It is beyond me," as the country editor observed of the production of a very scientific contributor—the philosopheme thereof is buried altogether too deep in the darkness of a Tartarean obscurity for any ordinary mental vision to discover. It bears date "Griqua Town, 19th June, 1838"; con-

sequently, four and a half months previous to the date of the pretended treaty, by which it is, of course, superseded. It is quite irrelevant to the case except in so far as the following two sentences may be supposed to concern it, viz. :

A reference to "the *two* Governments and the *two* Chiefs in the Griqua land." But this subject we have exhausted by our review of *Annexure 5*, in the last chapter.

The other sentence plainly admits the existence of a *third* Government and a *third* Chief in Griqualand :—

"Should the unwise Cornelius Kok, or his followers, create any disorder in the Griqua country, it will be totally at their risk."

Annexure No. 36 is a notice alleged to have been issued by Adam Kok, in 1862. We have already investigated it in Chapter V. Although it denies the sale of the Campbell grounds, *it fully proves that the very lands now seized by Waterboer and Co. were sold to the Free State.* "I desire to have it made known that the right sold for my account, by Mr. Henry Harvey, to the Government of the Orange Free State, confines itself to the *south bank* of the Vaal River, and in no respect applies to territory north of the Vaal River."

Annexure No. 37 and *No. 38* are similar to the last. One, *No. 37*, is in the form of a letter from Adam Kok to "his Honour J. H. Brand, President of the Orange Free State;" but this letter President Brand denies ever receiving, and his unsupported word, I take it, is of more value than the combined asseverations of all the Griquas who ever lived,—such notorious rogues and liars are they. Although

these last three documents dispute the sale of the Campbell grounds, singularly enough they admit the right of the Free State, by purchase, to the land "south of the Vaal," which, in reality, is alone the bone of contention; the diamond fields being situate thereon, whilst there, alone, the British filibusters,—magistrates, police *à la militaire* and of ordinary type, the vast crowd of officials, both great and small,—are firmly fixed, "*non missura cutem, nisi plena cruoris, hirudo.*"

Annexure No. 39 purports to be a copy of a treaty entered into between the late A. Waterboer and the late Batlaping Kafir Chief, Mahura, on the 22nd April, 1842. But as this is only an obsolete treaty (if genuine, for it is disputed) as to the boundary between two defunct chiefs, it does not possess any intrinsic value. There is but one point in it which can be, and has been, used as an indirect proof in favour of Waterboer's claims, viz.: the sentence which continues the mutual boundary line from

"Between Koning and Daniel's Kuil . . . in a straight line away to the north side of Boetchap."

This *was* Mahura's southern boundary, but certainly not Waterboer's northern line, for as Diagrams D., &c., show, the ground of the Chief Barend Barendse, extending from Boetchap to between Koning and Daniel's Kuil, possessed exactly that northern frontier. Moreover, in *Annexure No. 7* we have seen that A. Waterboer himself declared that one of

"The nations residing against his boundaries were, *on the north-east, a tribe of Koranas,*"

—the people of Barendse. Still, supposing the document to be genuine, the boundary line is correctly

described so far as Mahura's Kafirs are concerned, and that was most likely the object of the treaty, Barendse and the Griquas being allies, and their northern boundary line, *if joined*, being also correctly defined.

10. *Annexure No. 40* is a much more important paper. First of all, it bears date "Tawns, 18th April, 1864," *subsequent* to the appearance upon the scene of Waterboer's servant David, on whose evomition we have seen the whole fraudulent scheme to obtain the lands of the late Cornelius Kok began to assume both form and substance. Above all, it is evidently written *as a reply to promptings and questionings by Waterboer and Co.*

We will deal *seriatim* with every point it contains relative to the case.

1. The two first paragraphs of this document merely express the Chief Mahura's confirmation of the boundary line as agreed to by him and Waterboer in the alleged treaty of 1842,—the previous Annexure. The third paragraph, however, would be of a most gratuitous and irrelevant character, did we not perceive that it constitutes a reply to Mr. David Arnot's ingenious promptings. We quote it *in extenso* :—

Paragraph 3, Annexure No. 40.

(a) "I further declare and make known that the late Cornelius Kok was not known, or recognized by me or any one else as Captain of Campbell, as far as I know, as an independent chief, but only as a petty Captain of the late Andries Waterboer, and who also,

Remarks thereon.

(a) "In opposition to this absurd and sweeping assertion, we merely have to mention the evidence of the eleven witnesses who swore to Captain Cornelius Kok's position as an independent Chief, at the meeting at Nooitgedacht, already quoted in

in the year 1826, when the British Government consented to the appointment by the Chief, Andries Waterboer, of the said Cornelius Kok, as under Captain of Campbell, made the same known to me."

Chapter VII.; the report of the British Resident, Major Warden, quoted in Chapter III.—"On the 24th ult. I met *Captain Cornelius Kok and his Raad* . . . but both Waterboer and Kok *are Chiefs* residing with their people beyond the Vaal . . . The country

claimed by the *two captains* is at least fifty miles in length," . . . &c.; to the whole of the evidence we have already adduced; and to the official recognition of Cornelius Kok as Chief of Campbell, by the Governor of the Cape, in a despatch dated "1st May, 1848," and signed by "Richard Southey, Secretary." This document forms *Annexure No. 1.* on the Free State side, and will be quoted by and by *verbatim*.

2. The fourth paragraph of *Annexure No. 40* continues:—

Paragraph 4, Annexure No. 40.

Remarks thereon.

(b) "I declare, also, with a clear conscience, and on that account make known, that the late Cornelius Kok, of Campbell, never had any right, or had any thing to say whether in respect of Griqua boundary lines, and such was also the case in respect of my under-captain in my territory."

(b) In refutation of this equally false statement, we need but refer to the line between Campbell and Griqua Town; the line from Ramah to David's Graf, *made between Adam and Cornelius Kok alone*; and the Vetberg-line *made between Waterboer and Cornelius Kok*; subjects already fully dealt with in these pages. We may also mention the treaty made on the 8th Aug.,

1840, between "*Cornelius Kok* and Jan Bloem, Captains," and Mr. Oberholster, leader of the emigrant farmers, which we quote in the Annexure to Chapter X; and of which original copies are known to be in the hands of the Chief, Adam Kok, and other governments.

Why did Mahura "declare and make known" the assertions contained in paragraphs 3 and 4? They

are events which never concerned him, and the only reason one can imagine is that he responded to suggestions from Mr. David Arnot. We have seen that the date coincides, whilst the whole tenour of the document is in the style of a reply to a previous communication.

3. The fifth and sixth paragraphs define the boundaries :—

*Paragraphs 5 and 6, Annexure
No. 40.*

“The boundary lines known in 1820 and previously, between the Batlapin and Griqua territory, are as follow :—

“Commencing from the northern point of Langeberg, eastwards, including Maramani and Nelsfontein; and to the north of Boetchap, including Roelofsfontein to *Platberg on the east bank of the Vaal River*, as our territorial corner beacon.”

We will now quote *verbatim*, from *Annexure No. 39*, the following definition of boundary :—

“2. The boundary line between the two districts will now be plainly fixed, commencing on the north point of the Langeberg, and eastwards, pointing a little south from Nakoning; and further, on the half-way between Maramani and Klipfontein; and further projecting from Nelsfontein, between Koning and Daniel’s Kuil; and from there

Remarks thereon.

In the two first paragraphs of this paper, Mahura declares “that the boundary of our territories still are as stated in writing, in 1842”—*Annexure No. 39*,—and that these “were the same as were known in 1823, when I began to reign, as well as previous to that.”

But he here very distinctly contradicts himself, for in the alleged Treaty of 1842 no mention whatever is made of either “Platberg,” or the “east,” or any other “bank of the Vaal River.” Platberg being that terminal point of Waterboer and Co.’s fraudulently concocted line from ‘Ramah, *vid* David’s Graf, to Platberg,’ by which they seek to include the diamond fields in the ground they have plundered from the Free State, no doubt the crafty David prompted the insertion in *Annexure No. 40* of the words, “Platberg,” &c.; at all events, the gross garbling

in a straight line away to the north side of Boetchap, including Roselofsfontein."

and falsification of the definition of boundaries in the alleged treaty of 1842 is apparent. Where, in the opposite parallel column, occurs a word about "Platberg" or the "Vaal"? And nothing more is said of boundaries in the alleged treaty.

In concluding our review of *Annexure No. 40*, we have to point out the fact that its reputed author, Mahura, is now dead; that he was the only chief whose signature is put thereto; and that the document is rendered null and void, is in fact, entirely superseded by the proclamation inserted at the end of our 1st Chapter, wherein no less than *five* Batlaping and Barolong chiefs, including Gasibone, the paramount chief, in August, 1870, protested against, and utterly repudiated, all Waterboer's acts: "We further say that the Chief Waterboer is no chief in keeping with our laws . . . and neither did we, nor any of us, ever at any time acknowledge him as such," &c.

11. *Annexure No. 41*, being simply a proclamation issued by N. Waterboer, 15th October, 1862, warning all parties that sales of land in Griqua land, by Griquas or others, would not be recognized, and proclaiming the boundaries of Griqua land very irregularly, requires no comment,—it is not evidence, and it only concerns his own lands, which are not in dispute.

Annexures Nos. 42, 43, 44, 45, and 46 are all very holy and righteous missionary reports, extending, with one exception, from the year 1840 to 1843. They are not evidence; they are merely personal, unsworn statements; neither are they political records, nor in any

way relevant; and we must object to drag these fervent and theological outpourings into the case.

Annexures Nos. 47, 48, and 49 are letters from Mr. Owen, British Assistant-Commissioner, bearing date March, 1852, and are all written to Adam Kok, concerning solely his dispute at that time with the Orange River Sovereignty Government, about the "alienable" and "inalienable" arrangements.

Waterboer has nothing whatever to do with this correspondence; even if he had, Adam Kok's subsequent sale of his *entire lands* to the Free State, and the exodus of himself and people therefrom, would render it nugatory.

Annexures Nos. 50 and 51 are equally irrelevant, being communications from C. W. Hutton, Landdrost of Fauresmith, to Adam Kok (July, 1854), informing him that thirty-one farms "had been sold and voluntarily registered in his office by Griqua subjects!" If these letters prove anything regarding the case, it is that the Free State legally acquired by purchase part of the very ground now falsely claimed by Waterboer, and just as falsely seized for him by the Cape Colonial Government!

Annexure No. 52 is simply a letter to the President of the Orange Free State, dated 11th November, 1857, from Capt. A. Kok, containing a proposal for him and Waterboer to meet the President in the middle of December, 1857.

Annexure No. 53 (and last, thank Heaven!) professes to be a "letter from W. O. Corner, Clerk to the Court of Philippolis, to N. Waterboer, 8th February, 1860, requesting his and his council's presence at a

trial of two Griquas charged with the crime of murder."

What this has to do with Waterboer and Co.'s claim to the line from Ramah, *viu* David's Graf, to Platberg, deponent sayeth not.

The Annexures referred to in this last Section 11 of our analysis of Waterboer's documentary evidence, have evidently, one and all (from their absurdly irrelevant nature), simply been produced to swell the said evidence, and make it appear extensive and important. No less than 32 of the 53 *Annexures* are utterly irrelevant to Waterboer's claim ; whilst of the remaining 21, more than half really constitute proof in favour of the Free State case. Mr. David Arnot seems to have been the arranger of this huge, unwieldy, pointless mass of evidence—*sa boule est demeurée !*

CHAPTER X.

DOCUMENTARY EVIDENCE PRODUCED BY THE GOVERNMENT OF THE ORANGE FREE STATE, AT THE MEETING AT NOOITGEDACHT, IN PROOF OF THEIR RIGHT TO ADAMANTIA.

1. OFFICIAL RECOGNITION OF CORNELIUS KOK AS A TERRITORIAL OR INDEPENDENT CHIEF BY THE COLONIAL GOVERNMENT.—2. EIGHT TITLE-DEEDS TO FARMS WITHIN THE TERRITORY NOW SEIZED AS WATERBOER'S; THE SAME HAVING BEEN ISSUED TWENTY-TWO YEARS AGO BY THE BRITISH GOVERNMENT!—3. PROOF THAT ADAM KOK SUCCEEDED TO THE CHIEFTAINSHIP OF CORNELIUS.—4 AND 5. TITLE-DEEDS GIVEN BY CORNELIUS KOK IN THE DISPUTED TERRITORY.—6 AND 7. FURTHER PROOF OF ADAM KOK'S SUCCESSION TO CORNELIUS.—8. RECEIPTS OF THE PURCHASE-MONEY PAID BY THE FREE STATE FOR PART OF THE GROUND NOW SEIZED BY WATERBOER.—9. POSITIVE PROOF THAT CORNELIUS KOK WAS AN INDEPENDENT CHIEF, AND THAT ADAM KOK SUCCEEDED HIM.—10. WATERBOER'S CLAIM DISPROVED BY HIS OWN WORDS.

Although, at the meeting at Nooitgedacht, the representatives of the Orange Free State produced a far smaller *quantity* of papers as documentary evidence; it will be seen that in *quality* they altogether beat their adversaries, Messrs. Waterboer and Co., out of the field.

Whereas not more than two or three of the whole 53 documents brought forward by Waterboer were undoubtedly genuine, or sufficiently attested to constitute legal evidence, it will be seen that almost every paper

to which our attention will now be given is either official or authenticated.

Furthermore, we must not forget that the object of the Free State is exactly the reverse of Waterboer and Co.'s, viz., that it is to prove that Cornelius Kok was an independent chief; that Waterboer has not any right to the lands he claims—either the Campbell grounds or South Adamantia; and that to the last of these territories the right of the Free State is indefeasible—east of the Vetberg line, or Albania—whilst to the former its claim is, at all events, better than his.

1. *Annexure No. 1* is a most important State paper. Standing alone, it is quite sufficient to cover the Cape Colonial Government—and especially its Secretary, Mr. Southey—with confusion; for it clearly disproves, by their own former deed and words, the position they *now* maintain ostensibly in support of Waterboer, but in reality to retain the diamond-fields themselves, viz., that mendacious statement that the late Captain Cornelius Kok was not an independent chief, but was *Waterboer's* under-captain or subordinate.

The original of the following document is in the possession of the Free State Government, and in the archives of Cape Town an official copy should exist. Its authentic nature is, moreover, attested by the Free State Government, and by the surviving members of the late Cornelius Kok's Raad, &c.

“*Government House, Cape Town, 1st May, 1848.*

“Sir,—I have the honour, by direction of the High Commissioner, to acknowledge the receipt of your memorial, praying to be recognized as a *Native Chief*, in connection with the Colony; and to acquaint you that his Excellency has been pleased to accede to your prayer, and” (? has) “given directions to Major Warden to have the

boundary of *your territory* properly defined by a Land Commission, which will soon enter upon its duties.

"I have the honour to be, Sir,

"Your most obedient humble servant,

"RICHARD SOUTHEY, *Secretary*.

"MR. CORNELIUS KOK, *Chief of Griquas, Campbell Town*.

"(A true copy), F. K. HÖHNE, Government Secretary."

The terms and meaning of this despatch are clear and unmistakable. Cornelius Kok was officially recognised as "a native chief," and as "*Chief of Griquas*," not as an inferior officer of Waterboer's; whilst, above all, the lands over which he ruled are described as "*your territory*," not Waterboer's. As for the land commission, all we know is that it recognized Cornelius Kok as the rightful territorial chief of the land on the other side—or north-east of the line then existing between himself and Adam Kok, *from Ramah to David's Graf*, and further on towards Pniel; that it sanctioned purchases of farms on that land, from him, by white settlers, who thereupon received *British land certificates*, or title-deeds from the Sovereignty Government; and that it recognized *him only* as the independent chief of the Campbell lands.

The State paper, *Annexure No. 1*, has neither been cancelled nor repudiated, nor has the accuracy of its terms and expressions regarding Cornelius Kok ever yet been modified. How Messrs. Southey and colleagues of the late Cape Government manage to surmount this fact,—this very obstinate fact—how they dispose of the bull in their path, horns and all, history, as yet, tells not.

Annexures Nos. 2 and 3, being instructions to the combined Griqua and Free State Land Commission of

1861, signed by President Pretorius and the chief Adam Kok, and referring to

“All uninspected ground, both in the territory of Captain A. Kok and of the late Cornelius Kok,”

have previously been noticed in Chapter VI. They are genuine and undoubted official papers; and just as incontrovertible is the fact that they prove that both the Free State and the Griqua (Philippolis) Governments recognized Cornelius Kok as a territorial chief.

Annexure No. 4, copy of the power of attorney, by virtue of which Mr. Henry Harvey sold, for Captain Adam Kok, to the Orange Free State, all grounds then remaining to, or which might “be found to belong to the Griqua Government” of Philippolis, including, of course, as the Free State rightly maintains, the Campbell grounds—all former territory of his late uncle, Cornelius Kok, to whose rights and titles we have so clearly seen that he succeeded on that old chief's abdication in his favour.

This document being quoted *verbatim* in Chapter V., requires no further notice here.

Annexure No. 5 may be treated simply as *Nos. 2 and 3*; it is also an agreement between President Pretorius and Captain Adam Kok

“To have the grounds of the present territory of Philippolis . . . inspected by a commission of four members . . . and to do the same with the lands of Cornelius Kok.”

This document bears date “Philippolis, 12th June, 1860. Its language is so clearly in accord with my argument regarding the late Cornelius Kok as to require no comment.

Annexure No. 6:—

“Minutes of the proceedings of the Commission deputed by the Government of the Orange Free State, to enquire into the rights on the Campbell grounds, 1863,”

containing the valuable sworn evidence of the Provisional Captain of Campbell, Dirk Kok; Abraham Kok, a surviving brother of the late Captain Cornelius Kok; Arie Samuels, one of that deceased chief's oldest councillors; and the very important testimony of Hendrik Hendrikse, Captain Adam Kok's former Government secretary; has already been fully reviewed in Chapter VII.

2. *Annexure No. 7* consists of a number of highly important land certificates of property within the false boundary line now claimed by Waterboer, but seized and occupied by the Colonial Government. *These are title-deeds issued by the British Government itself, all (but one) MORE THAN 22 YEARS AGO, by Major Warden, as a result of the land-commission referred to in Annexure No. 1!* These farms, with many others, were made over to the Government of the Orange Free State, by the treaty or convention printed *in extenso* at the end of our 3rd chapter, from *Article IV.*, of which we find that, with regard to those of Her Majesty's former subjects electing to remain within the new state,—

“Such persons shall be considered to be guaranteed in the possession of their estates by the New Orange River Government.”

During the whole period of the Free States' political existence (nineteen years!), these farms have been to all intents and purposes part and parcel of its territory—three of them, indeed, viz., the farms *Driekopspan, No. 234, Waterbak, No. 235, and Scholtz-*

fontein, No. 380, being the frontier farms over against the Vetberg line, referred to by *Annexures Nos.* 24, 26, and 27, of Waterboer's case, noticed in Chapter IX., and also at greater length in Chapter IV. Never have these farms being without the effective and actual jurisdiction of the Free State law courts; never has a solitary Griqua subject of Waterboer's been resident thereon as an occupier of land; yet now, forsooth, in order to steal the diamond-fields, after both formally and tacitly recognizing the right and title of the Free State during all those *nineteen years*, the avaricious Government of the Cape Colony declares that territory to be Waterboer's, seizes it by armed force, and retains it for themselves!

Although I have seen, in the Free State archives at Bloemfontein, the original deeds, and possess *verbatim* copies, the numbers, dates of the certificates, and names of the farms are quite sufficient to quote, viz:—

“ Land certificates issued by Major Warden:—

No. 70.	Dated 19th December, 1848.	‘Valschfontein.’
„ 71.	„ „ „ „ „	‘Kareelaagte.’
„ 234.	„ 16th March, 1849.	„ ‘Driekopsan.’ *
„ 235.	„ „ „ „ „	„ ‘Waterbak.’ *
„ 350.	„ 24th July, 1850.	„ ‘De Kuilen.’
„ 356.	„ 14th August, 1850.	„ ‘Klippan.’
„ 380.	„ 1st March, 1852.	„ ‘Scholtzfontein.’ *
„ 349.	„ 24th July, 1850.	„ ‘Klokfontein.’ ”(1)

The farms marked thus (*) will be seen against the Vetberg line on Diagram C, at the end of Chapter IV.

(1) *A further list of 22 other farms, with British Sovereignty land certificates, and all within the line now claimed by Waterboer, will be found in the Annexure at the end of this Chapter.*

Although the territory wrested from the Orange Free State by Messrs. Waterboer and Co. contains no less than 140 Free State farms, including those above, many of which possess British Sovereignty title-deeds, and most of the others original "requests" (or title-deeds) from Captain Adam Kok, and Captain Cornelius Kok, is it not an astonishing fact that Waterboer has not produced even one single document or title-deed, such as these? But then the *modus operandi* of the fraudulent association is simply to deny everything, even although they never prove anything. They say, "Ah ! but those farms were all sold illegally. They did not belong to the Chiefs who originally sold them. Waterboer was the rightful owner."

And upon this Hottentot-Mulatto's sole and unsupported *ipse dixit* to that effect, has the Colonial Government acted. As for Waterboer's case, absolutely nothing has been *proved* in its favour (and I challenge contradiction), although territorial rights and titles, from 11 to 32 years' undisputed possession have been now suddenly disputed and seized by armed force!

3. *Annexure No. 8.* This document is very important, as proving that Adam Kok of Philippolis, subsequent to his succession to the Campbell lands by the resignation of Cornelius Kok in 1857, *did absolutely rule and dispose of those lands as the territorial chief.* It is a title-deed (or "request," in the vernacular) given by *him* in the very territory now claimed by Waterboer, and seized by the Colonial Government; the original is in the possession of the Free State Government; neither it, the sale, nor the occupation were ever before disputed by Waterboer!

We quote the document:—

“A new request is granted by me, the undersigned, to Adam Kok, of his farm called ‘De Puts’ *situated in the district of Campbell*. . . *thus a new request is granted by me* to the burgher Adam Kok, of the farm called ‘De Puts,’ as the lawful property of him and his successors.”

“ADAM KOK, Kaptijn.”

“Vetberg, 16th April, 1861.”

This title-deed was sent to the Government secretary of the Free State for registration, and was also attested by Messrs. Marais and Sluiter, of Fauresmith, in a communication from that place, dated “26th April, 1861.”

4. *Annexure No. 9.* This document, being very amply attested and authenticated, is an invaluable piece of evidence in proof of the Free State argument, that Cornelius Kok was an independent chief, possessing, as such, the right to sell and alienate lands. It is a title-deed granted by him.

“I, the undersigned, Cornelius Kok, Captain of Campbell, hereby acknowledge to have well and lawfully sold to the burgher, Abraham Kok, my farm called ‘Vogelfontein,’ *district Campbell*, for the sum of one hundred rix-dollars, as the lawful property of him and his, with its adjoining lands, to wit: one hour on horse-back, square stepping.

“CORNELIUS KOK, Kaptijn.

“His + mark.”

“Campbell, 10th September, 1855.

“As witnesses, W. A. CORNER, Clerk.

“PETRUS GOEJIMAN.”

Upon the “10th of February, 1864,” Abraham Kok sold this farm to a “Mr. William Davis,” for the sum of “three thousand five hundred rix-dollars;” besides the deed of sale, a “power to transfer” was also drawn up. These two documents were witnessed by “Cornelius Kok,” Abraham’s son, and by “Petrus

Goejiman;" the originals, as also the original "request," or title-deed, being in the Free State archives.

Annexure No. 11, being "request" or deed of sale of a farm in the Campbell lands, by Petrus J. Goejiman, a private individual, is quite unimportant and irrelevant.

5. *Annexures Nos. 10, 12, and 13*. These documents, being "requests" or title-deeds originally issued by Captain Cornelius Kok, in his capacity as independent territorial chief of the Campbell lands, are invaluable. *Not one* such piece of documentary evidence can be, or ever has been, produced by Waterboer in proof of his newly alleged right or title to the lands and chieftainship!

No. 10. "Request is granted by me, the undersigned, to the burgher, Adam Kok, of the farm 'Wolfefontein,' as the lawful property of him and his heirs. . . . The farm is situated in the *district of Campbell*."

"I sign my name with a cross.

"CORNELIUS KOK, Kaptijn.

"His + mark."

"Campbell, 16th December, 1853."

"As witnesses, W. O. CORNER, Clerk.

"ARIE SAMUELS, his + mark, Councillor."

No. 12. "I, the undersigned, Cornelius Kok, Captain of Campbell, hereby acknowledge to have well and lawfully sold to the burgher, James Corner, for the sum of five hundred rix-dollars, with the adjoining lands, as follows:—From the old Kafir Kraal, above Zand drift, back to the first-named beacon This farm is situate on the north side of the Vaal River, *district Campbell*."

"CORNELIUS KOK, Kaptijn.

"His + mark."

"As witnesses:

"HENRY RICHARD BARTLETT.

"W. O. CORNER, Clerk.

"ARIE SAMUELS, his + mark.

"Campbell, 8th December, 1855."

No. 13. "I, the undersigned, Cornelius Kok, Griqua Chief of Campbell, hereby acknowledge to have exchanged with the burgher, W. O. Corner, two farms, named 'Wolvepan,' and 'Wildebееst-hoek,' *alias* 'Swartlaagte,' both situated between Riet and Orange Rivers, for two farms of mine, *situated to the north of the Vual River* called 'Moeziep'. . ."

"I sign my name with a cross.

"CORNELIUS KOK, Kaptijn.

"His + mark.

"As witnesses:

"HENRY RICHARD BARTLETT.

"ARIE SAMUELS, his + mark.

"HANS DEWEE, his + mark.

"Campbell, 15th January, 1856."

The above documents constitute such palpable evidence in proof of the late Cornelius Kok's independence, and his uncontrolled disposal of the Campbell lands, &c., as to require no comment. They are sales and alienations of the national property; and the originals are possessed by the Free State Government.

6. *Annexure No. 14.* This is also a most important official paper, as proving that the territory of the late Barend Barends, the chief of the Korana tribe, north of Campbell, and "on the north-east" of Waterboer's territory, never belonged to the latter chief; and as further proving that the said territory, after the resignation of Cornelius Kok, devolved, with the Campbell lands, upon Captain Adam Kok, and not upon Waterboer:—

"*Philippolis.*

"Be it known that, on the 8th day of December, 1859, the farm called 'Pienaarsfontein,' that was formerly given by *Captain Barends* to the late Jan Pienaar, and" (? was) "by me, as having

P

full power, given to Piet Pienaar, and the other heirs of the late Jan Pienaar."

(The ground and boundaries of the farm are then defined).

(Signed) "ADAM KOK, Captain.

"Witnesses:

"LUCAS VAN DER WESTHUIZEN.

"Mark + of JAN PIENAAR."

Annexure No. 15. This document also applies to the farm described in *No. 14*. It is also important as indirectly proving the existence of a boundary line between the late chiefs, Cornelius Kok and Mahura, which, as we have seen, the latter, under the influence of Waterboer and Co., denied, shortly before his death.

"*Nomansland, Berg Vijftig, April 10th, 1864.*

"I, the undersigned, Piet Pienaar, declare this day to have lawfully sold my farm called 'Pienaarsfontein,' situated on the other side of the Harts River, between the *line of Cornelius Kok and Mahura*, to Mr. H. Boeving, of Philippolis, for the sum of two hundred and fifty pounds.

"I, the second undersigned, H. Boeving, resident at Philippolis, declare to have bought above mentioned place of the owner, Piet Pienaar, for the above price.

"This done at Berg Vijftig, Nomansland, *April 10th, 1864.*

"PIET PIENAAR.

"H. BOEVING.

"Witnesses:

"Jan Jood.

"WILLEM KOK."

The second part of *Annexure No. 15*, is the following letter addressed to "the Secretary to Government of the Orange Free State":

"*Philippolis, April 18th, 1865.*

"SIR—According to decision of the Volksraad, dated February 13th, 1865, I have the honour to send you—

“ 1st:—Request of Adam Kok ” (*Annexure No. 14.*) “ of the farm ‘Pienaarsfontein, situated in the Campbell grounds, of the 8th December, 1859.

“ 2nd :—Deed of sale of the farm of Piet Pienaar, to H. Boeving, dated April 10th, 1864.

“ My client, Mr. Heinrich Boeving, claims the farm according to deed of sale.

“ Yours, &c.,

C. J. VELS, Attorney for H. Boeving.”

This letter means that the above documents, *Nos.* 14 and 15, came into the hands of the Free State Government after its purchase of the Campbell lands, &c. (on the 26th December, 1861), when, at a subsequent period, in 1865, it called upon all holders of property therein to submit title of their rights and possessions.

Annexure No. 16. This being the deed of sale, by Mr. H. Harvey, as Captain Adam Kok’s agent, of the whole of the remaining “open lands” of that chief, as well as of the late Cornelius Kok, does not require to be noticed here, having already been quoted *in extenso*, and fully reviewed, in Chapter V. It is very important indeed, as proving that not only was “all the right and title to the Griqua land formerly possessed by Adam Kok and his people,” sold to the Government of the Orange Free State, on the 26th December, 1861, but “likewise that of the late Cornelius Kok.”

Annexures Nos. 17 and 18 are not important (being proclamations issued by the Government of the Free State), except so far as they prove that on those dates—respectively 2nd July, 1862, and 8th October, 1862—the Government had, and published, precisely the rights, titles, and claims which are now disputed

by fraud, and overthrown by brute force. No. 18 has also been noticed in Chapter V.

Annexure No. 19 is, perhaps, the most important of all the documentary evidence produced. It is the famous Vetberg Treaty, or definition of the "Vetberg line;" which is fully discussed in Chapter IV.; and to which we have seen by the most irrefutable and ample testimony, the Griqua captains, or chiefs, Adam Kok, Cornelius Kok, Jan Bloem, and *Waterboer*, both collectively and individually, and in conjunction with their respective raads or councillors, gave their unqualified approval and consent, at Vetberg, on the "10th October, 1855; though *Waterboer* now, to attain his object in the fraudulent and successful conspiracy to obtain the diamond fields, *denies all knowledge thereof!* I would most particularly urge upon my readers the indisputable fact that, if the real existence of the Vetberg Treaty or line be once proved, the entire claim of *Waterboer* and Co. falls to the ground.

7. *Annexures Nos. 20 and 21* also constitute very valuable evidence in proof of the Free State case; indeed, if they are authentic, the adverse case is disposed of; and they are sworn to and attested by many persons (nearly all those who appeared as witnesses at Nooitgedacht), some of whom are the (surviving) individuals mentioned in the documents!

No. 20 is an original certificate granted by Adam Kok, at the futile meeting held between him and *Waterboer* in 1861, at Vetberg, when an exchange of part of the Campbell lands for part of Albania was the subject of discussion, and which certificate, as we have seen (Chapter V.), was *neither challenged nor disputed by Waterboer at the time*, nor, indeed, ever after—except

since his present preposterous claim—when, in a general sort of way, he, of course, indirectly denies all the Free State evidence:

“This is to certify, that Jan and Hendrik Bartlett receive full right through me, the undersigned, to dispose of all his rights to ground over the Vaal River, *district Campbell*, to whosoever he chooses.

“ADAM KOK, Captain.

“*Vetberg*, 16th April, 1861.

In our investigation (Chapter VII.) of the oral evidence brought forward at Nooitgedacht, we have seen that, amongst others, Mr. W. O. Corner, *the actual writer of this very document*, swore to the facts of its existence!

No. 21 is a renewed title-deed granted by Adam Kok, as successor of his uncle, Cornelius, in the Campbell grounds Waterboer pretends were always his!

“I, the undersigned, do hereby grant a new request to the burgher, Arie Samuels, of the farm called ‘Koopmans,’ *which was formerly given by Captain Cornelius Kok, of Campbell*, which request has been lost or mislaid, and which request was granted in 1855; therefore a new request is granted to the burgher, Arie Samuels, of the farm called ‘Koopmans,’ with its adjoining lands, as formerly granted, as his lawful property.

“ADAM KOK, Captain.

“*Campbell*, 6th April, 1861.”

These documents require no comment. The *onus probandi*, we all know, rests on the person making a charge; let Waterboer and Co. refute the above Annexures if they can!

8. *Annexure No. 22* consists of receipts, signed by Mr. H. Harvey, of the purchase money of the former

lands of the late Cornelius Kok, and all the remaining territory of the Chief Adam Kok, paid over to him as the latter's agent, by the Government of the Orange Free State, in accordance with the terms of the deed of sale entered into on the 26th December, 1861, quoted at length in Chapter V.

From page 5 of the "Minutes of the Meeting at Nooitgedacht," I take the following list of the dates and amounts of the receipts in question :

£1,020	0	0	..	..	..	22nd April, 1862.
550	0	0	..	..	..	20th Feb. 1863.
2,218	7	1	..	..	..	20th June, 1867.
547	10	9	..	..	..	19th March, 1863.
410	10	9	..	..	..	20th August "
300	0	0	..	..	..	20th May "

These figures speak louder than words. No one denies that the money was paid by the Free State, and duly received by Adam Kok. As we have previously shown both in Chapters V. and VII., no one at the time, nor for long after, denied the undoubted fact that the lands of the late Cornelius Kok were included amongst those sold, although the matter was fully set forth in the deed of sale. No one, moreover, can deny that it must have been a very large tract of country indeed for that price to have been paid for it, as, in those days, waste or unimproved lands were merely of a nominal value in that part of the world; and as *the whole of the Campbell lands, with nearly all South Adamantia (which included the remaining "open" Government lands of Adam Kok)*, have now been wrested from the Free State by the Colonial Government, it is clear that the greater part of the territory legally purchased by that State is in the hands of the filibusters. The

country thus robbed is over 5,000 square miles in extent! The fact that previous to this unmitigated robbery, pretended to be in his interest, the semi-barbarian Waterboer and his two or three hundred dissolute followers, *already held in their possession a country extending to over 6,000 square miles*, has, of course, been carefully concealed by the Colonial Government and Governors! Quite as cautiously have they ignored, and remained purposely oblivious to, the fact that, during 60 years of occupation, Waterboer's Griquas have utterly neglected to improve or utilize their extensive territory—*more than 30 square miles of ground per male adult of the whole population!*

Knowing these facts, how mean, how false, how utterly unjustifiable must any honest man deem the professed motives of the Colonial Government, and the outrageous acts founded thereon—the bitterly hostile treatment to which they have subjected their friendly neighbours of the Orange Free State?

9. *Annexure No. 23.* This document is one of the most important produced by the Free State. It conclusively establishes the facts 1st, *that Cornelius Kok did rule as an independent chief; 2nd, that Adam Kok did inherit and succeed to all his territorial possessions.* It consists of the very best of written or documentary evidence, *i.e.*, the original instrument; attested, moreover, by all the witnesses (who are all living, and two of whom gave their evidence at Nooitgedacht) produced by the individual (W. O. Corner) for whom it was originally drawn up; and not, indeed, denied by anyone of the persons concerned therein. We quote it *verbatim*.

POWER OF ATTORNEY.

"I, the undersigned, Cornelius Kok, Griqua Chief, residing at Campbell, hereby nominate and appoint Mr. William Ogilvie Corner, residing at Philippolis, as my lawful agent and attorney, with the power to write in my name to the Orange Free State Government, respecting certain of *my grounds* which are occupied by the burghers of the Orange Free State, and which have never been sold or let by any of *my burghers*; and I further give him the power to fix beacons, according to my instructions, of any grounds which have been sold by me or any of *my burghers*; and I also give him the power of substitution as my agent, in my name, place, and stead, to appear before any of the Orange Free State Courts, *and there as my act and deed to make and give transfer of farms*, and thus to carry out what may be required in respect of such, with promise of approval. And I further authorize my agent to sell any of *my ground*, and to give such purchase rights in my name to such purchasers, and also any purchase rights, *or to give farms out to any of my burghers*; and everything that he shall do as my agent will be approved of by me, the undersigned, *Chief of Campbell*.

"Given under my hand, at Campbell, on the 8th day of the month July, 1856.

"CORNELIUS KOK, Captain.

"His + mark.

"As witnesses :

"HENRY BARTLETT.

"JAN GOEJMAN."

The above document having been proved to have been acted upon, and its terms and due execution never having been protested against, nor, indeed, objected to, by Waterboer, either at the time, or until 1870—*fifteen years subsequently*!—and then only indirectly by the general nature of his claim to Adamantia, we have every right to take the paper (especially the passages in italics) as absolute proof of the late Captain Cornelius Kok's entire independence as the sole and supreme Chief of Campbell.

This document is endorsed upon the other side:—

“ I, the undersigned, Adam Kok, *lawful successor and executor of the late Cornelius Kok*, Chief of Campbell, hereby declare to nominate and appoint, by virtue of the aforewritten Power of Attorney of the late Cornelius Kok, Mr. William Ogilvie Corner, of Philippolis.

“ ADAM KOK, Captain.

“ Thus done at Philippolis, this, the 14th day of the month June, 1859.

“ As witnesses :

“ W. J. CROSSLEY,

“ JAMES CORNER.”

This undisputed endorsement proves what is a notorious matter of history in the neighbourhood, viz., the facts (1) that Cornelius Kok *did* bequeath all his lands—the Campbell grounds, and certain territory on the south bank of the Vaal—to Captain Adam Kok; (2) that the latter *did* by law, and in fact, accept the same, exercise undivided chieftainship over them, and retain undisputed possession, until he and his people sold off everything they possessed in land to the Free State, and migrated from that part of the country; (3) and that Waterboer *did not* succeed to, nor at any time possess, any portion of the said territory, nor ever dispute the right and title of Adam Kok, *until subsequent to that Chief's departure*.

Annexure No. 24. This document is unimportant, being an old power of attorney granted by the Chief Adam Kok to Mr. Harvey, but superseded by that of later date, 15th August, 1861, *Annexure No. 4*, quoted *in extenso* in our fifth chapter.

10. *Annexure No. 25*, and last, is a document of the greatest importance. It convicts Waterboer of fraud and falsehood in his present claim to the diamond fields and the Campbell lands, out of his own mouth,

by his own words, written long ago, a full decade before the existence of the precious stones ever came to be suspected.

It is a letter written by him to a well-known resident of the Free State, in reply to the latter's previous applications to him for a farm in the Campbell lands :—

“ Vaal River, 5th October, 1859.

“ To Mr. A. W. GREEFF, at Campbell.

“ GOOD FRIEND,—Inasmuch as I have received two observations (applications ?) from you, regarding a farm of mine, *situated in the division of Campbell*, which farm you desire to obtain from me, for your use, according to your statement, the undersigned hereto will be (is ?) utterly unable to give you a satisfactory answer, because the said farm *does not belong to my territory, and is consequently without the limits of my territorial jurisdiction* ; thus putting it out of my power to send you an exact (a satisfactory ?) answer to your request.

“ Whenever such applications are made to me within the limits of my jurisdiction, I should be prepared to return an answer conformable with my principles, as to the practicability or impracticability.

“ I have the honour to be, Sir,

“ Your friend,

(Signed) “ N. WATERBOER, Captain.

“ A true translation ;

“ WILLIAM COLLINS,

“ Sworn Translator to the Colonial Government and
Supreme Court, Cape Colony, of 1840.”

The original letter has been produced and sworn to by Mr. Greeff, and is now in the hands of the Free State Government. Nothing can be clearer than the manner in which the passages we have put in italics deny all the right to the Campbell lands ; and this

coincides with the well-known history of the country. Of course, unless Waterboer can disprove the authenticity of this document, it entirely upsets his case. So far as I can ascertain, Waterboer has never yet denied this letter, although his special pleaders (the Colonial Government) say so, and by two of their members, Mr. Southey, Colonial Secretary, and Mr. Griffith, Attorney General, once undertook to throw doubt upon it by declaring that the signature on the original was a forgery!

“Being something like this, ‘N. Water-Boer,’ while on all authentic documents that we have seen, the signature is written ‘N. Waterboer.’”*

Well, at Bloemfontein, during the month of May, 1872, his Honour, President Brand, and Mr. F. K. Höhne, Government Secretary, had the courtesy to produce to me five or six “authentic documents,” with five or six authentic signatures of “N. Water-Boer,” exactly as on the document, *Annexure No. 25*. Of course, the *onus probandi* does not rest with the Orange Free State, who are the defendants, although, with intentional and unpardonable injustice, the Colonial Government has forced it upon them, but upon the plaintiff, Waterboer, who claims part of the State’s territory—part, too, which, as we have seen, has for a quarter of a century been in the indisputable possession of the residents therein, and which has been part and parcel of the State from the day of its existence!

A comparison of the documentary evidence produced on either side cannot fail to be in favour of the

* *Vide* p. 157, Capetown Blue Book, No 1. 1871.

Free State ; both the relative value, and the respective merit, seem too palpable to require further comment. Here ends our review of the documentary part of the evidence brought forward by Waterboer and by the Government of the Orange Free State at the meeting at Nooitgedacht.

But as bearing directly upon the same points, I have selected a few documents out of those subsequently produced by the Orange Free State Government during the controversy with the Government of the Cape ; and these I add to this Chapter, as an important Annexure.

ANNEXURE TO CHAPTER 10.

This Annexure contains five documents, four of which are copies of originals in the possession of the Free State Government ; the fifth being a certified copy of an original possessed by Captain Adam Kok.

1. This is a list of *twenty-two farms* for which British land certificates or title-deeds were granted during the time of the Sovereignty. And although for a period of from *twenty-two to twenty-four years* these farms have been *and still are* held and occupied by virtue of the said titles (having moreover, in most cases, been purchased by the owners some years before the issue of the British land certificates), yet all are now cut off from the Orange Free State by the false line claimed for Waterboer, and forcibly taken possession of by the Colonial Government !

	NAME OF FARM.	OWNER.
1	David's Graf, or Klip Drift	PietvanderWesthuisen
2	Kookfontein (No. 135, 24th July, 1850.)	Christof. J. Jacobs.
3	Knoffelokfontein	J. J. Boshof.
4	Mayerskuilen	Christoffel Jacobs.
5	De Zoutpan	H. Groenewald.
6	Klipfontein	James Jones.
7	Swinkspan	Willem Jacobs.
8	Zoetfontein	Salomon Vermaak.

I can only find the number and date of the British land certificate of one of the above farms; but they are quoted and attested by Messrs. J. J. Boshoff, Member of the Volksraad, J. J. Rabie, and F. Rossouw, Members of a Free State Land-Commission in 1854.*

	No OF FARM.	NAME OF FARM.	NAME OF OWNER.	DATE OF BRITISH LAND CERTIFICATE.
9	No. 46	Platfontein	Johannes F. Otto	Modder River, Dec. 16, 1848.
10	" 50	Mauritzfontein	John C. Coetzee	" "
11	" 52	Alexandersfontein	Johannes C. Coetzee	" "
12	" 57	Voetpad Drift	Robert Pretorius	" "
13	" 58	De Doorns	Willem Luddik	" "
14	" 66	Spytfontein	C. J. Jacobs	Dec. 19, 1848.
15	" 69	Salpeter Pan	Johannes Combrinck	" "
16	" 255	Klip Drift	JacobusAdrianSmith	Bloemfontein, April 24, 1849.
17	" 338	Knoffelfontein	Pieter S. Jacobs	Kalkfontein, July 17, 1850.
18	" 339	VanAswegen's Hoek	"	" " "

The above list is copied from the official extract from the books of the British Sovereignty Land Register, made over to the Government of the Orange

* Vide p. 117, Blue Book, "Correspondence respecting the Cape of Good Hope."—London, August 17, 1871.

Free State in 1854, and was produced to Sir H. Barkly, at Cape Town, by President Brand, on the 5th January, 1871.*

	NO. OF F	NAME OF FARM.	NAME OF OWNER	DATE OF BRITISH LAND CERTIFICATE.
19	No. 167	Waterval.	C. J. Jacobs.	24th July, 1850.
20	" 43	Tweerivieren.	A. P. van der Walt and Johs. Rabie.	27th June, 1850.
21	" 6	Klipdrift.	Hk. Ch. Pretorius.	19th Dec., 1848.
22	" 53	Brakfontein.	J. F. Otto.	16th " "

This list is also copied from an official extract from the books of the British Sovereignty Land Register made over to the Government of the Orange Free State; it was produced to Sir H. Barkly by President Brand, at Cape Town, on the 14th of January, 1871.†

In addition to the above twenty-two farms, making (with the eight quoted in *Annexure No. 7*, Chapter X.) thirty in all, there are three others of which I have not any particulars, increasing to thirty-three the total number of farms with British land certificates, now wrested from the Free State. With respect to these, President Brand, in a despatch to Sir H. Barkly, dated "Bloemfontein, 7th February, 1872," after part of the Free State had been annexed to the Cape Colony by Sir H. Barkly's unauthorized proclamation of the 27th of October, 1871, states:

"The Government of the Orange Free State‡ cannot

* *Vide* p. 113, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope."—London, August 17, 1871.

† *Vide* p. 122.—*Ibid.*

‡ *Vide* p. 79, O.F.S. Blue Book, "Correspondence between the President of the Orange Free State and the Governor of the Cape Colony."—Bloemfontein, 1872.

understand upon what principle of right and justice her Majesty's Government can, SEVENTEEN YEARS AFTER THE ABANDONMENT OF THE SOVEREIGNTY, question or disavow the act of their officer, Major Warden, and of his Excellency Her Majesty's High Commissioner, Sir Harry Smith, as against the Free State Government, who have, by Article 4, of the Convention (of 1854), guaranteed the possession of the lands then in occupation of the white inhabitants, and the title granted by the British land certificates; of these thirty-three are situated in the territory lately proclaimed by your Excellency, thirty of which were issued between 1848-1850, and three in the year 1852."

Well, indeed, may President Brand ask upon "what principle of right and justice" so gigantic a fraud can be perpetrated as that by which his country has been robbed of 143 farms (33 being guaranteed originally by the British Government itself), and, altogether, not less than 5,000 square miles of territory! I venture to affirm that no honest man acquainted with the case would answer otherwise than that the only principle concerned is that of might; and, investigating the matter *a posteriori*, that it was solely in order to obtain the diamond fields that such might has been so arrogantly, cowardly, outrageously exercised.

2. The following are translations from some original documents, being reports and results of the Free State Commission sent out in May, 1854, by the Government, as soon as possible after its creation by the abandonment of the Sovereignty, in order to ascertain from the Griqua Captains, Waterboer and Cornelius Kok, a definition of their respective boundaries,

for the purpose of avoiding any frontier troubles or disputes in the future.*

"We, the undersigned, Captain and Councillors of Campbell, declare by these presents, that the boundary lines between us, Waterboer and Jan Bloem, are as follows :

This line is nearly identical with that known as the Vetberg line, by which, in the following year, it was finally and amicably superseded, with the consent of all the States, Powers, or Governments concerned.

"To the south of the Red Ridge (Rooderand) at Pieter Abraham's Tabak's farm, with a straight line over the Spits Kopje at the Red Pan, further on the left side of the Vetberg, and with a straight line over Uithaaldersfontein to the cross line of Captain Adam Kok" (from Ramah to David's Graf), "(a) and with the same line northwards to David's Graf, on the Riet River, and from there with the course of the river to the two rivers, and with the waggonroad out on the opposite side to Spytfontein, thence with a straight line on to the first turn, to the lower side of the school" (Mission) "farm on the Vaal River" (Platberg); "in which grounds the burghers of the new Government shall have the right to buy grounds from Captain Cornelius Kok or his subjects, excepting along the Vaal River, as far as the stock can graze from the river.

"Campbell, 24th May, 1854.

"As witnesses	(Signed)	+	CORNELIUS Kok, Captain.
J. J. RABIE.			J. STEGLENG.
J. J. BOSHOFF.		+	JACOBUS DEWEGE, Councillor.
F. P. ROSSOUW, G. F.		+	JOHANNES DEWEGE, ,,
		+	CORNELIUS Kok, ,,

(a) From this point in the description of boundary, the line (excepting a considerable deflection to the west, to allow for farms which had been purchased, and were then occupied by Free State subjects), runs as the line now claimed for Waterboer from David's Graf to Platberg. Altogether the document and the reports of the commission are highly important; they

* Vide p. 117, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope"—London, August 17, 1871.

prove, 1st, that Cornelius Kok was an independent Chief; 2nd, that Waterboer did not then dispute the fact; 3rd, that Waterboer did not then claim any land where now he does, beyond or to the east of the Vetberg line; 4th, that the Free State took every precaution to avoid encroaching upon native territory; 5th, that the Free State acquired from the lawful owners the right to purchase the lands now claimed for Waterboer; 6th, that Waterboer was a consenting party to the making of the Vetberg line between himself and Cornelius Kok, by Captain Adam Kok.

The following extract is taken from the "Report of the Commission:"

"I told them" (Cornelius Kok and his Councillors) "that we were deputed by the new government to ascertain whether any dispute existed, in respect to ground, between him and Waterboer. . . *He said that he had written to Captain Adam Kok to make the line between them.*

"Waterboer asked what was the intention of the new government in respect to this. I answered that it was a precaution to know if it were desirable to allow our burghers to purchase grounds. . . . He said, 'I am pleased to hear of the good intentions of the new government.' Thereupon I caused the document (quoted above) received from Cornelius Kok to be read, in order to ascertain whether there was any dispute respecting the line as stated by Kok. Waterboer said this day was the first occasion that he heard of *that* line. One of his Councillors named Jacob Kruger, said that their grounds ran (a) *from Ramah in a straight line to David's Graf, and with the Riet River stream to its junction with the Orange River.* Waterboer said that he could not just now speak about *that* line, as he had no knowledge of it; we should bear a little patience; *he had requested Adam Kok to decide the line between them; then he would see whether there were any disputes between them.*"

(a) This definition is almost as much to the east, as ? the line claimed by Cornelius Kok was to the west of the line eventually decided upon, as the Vetberg line, between them, by Adam Kok.

In a sworn deposition, dated "December 1st, 1870," Mr. J. J. Rabie made the following statement respecting the same incident of the Commission of 1854 :

"He" (Waterboer) "then said that his line was half-way between Griqua Town and Campbell; from there to where the point (or edge) of Campbell's mountain reached the Vaal River, thence up the Vaal River to the junction of the Modder and Vaal Rivers, thence along the side of a certain Redpan over the Vetberg, over the Pan of Kubab, over the Pan of Klipfontein, to a place called Stuurman's Vlei, and thence to the line from Ramah to David's Graf; but he added to this definition, 'I am not quite positive about these lines,—reasons why I requested Adam Kok to act as arbitrator and decide this dispute.'"

Taking advantage of the necessarily different wording between the original "Report," and Mr. Rabie's deposition made from memory *sixteen years after the event*, Mr. Southey and his colleague, the Attorney-General of Cape Town, in considering both documents, in a report thereon to Sir H. Barkly, dated January 19, 1871, state :

* "In his declaration of December, 1870, he gives a very different version of what took place at Griqua Town from that afforded by his Report of 1854; seeing that, while in the Report he states that Waterboer denied all knowledge of the line described by C. Kok, *or of any line whatever between them*, in the declaration he says that Waterboer gave a particular description of the line."

This, I submit, is a total misrepresentation. The least perspicuous and impartial of critics might have seen that the line denied by Waterboer in the "Report," was "*that line*" as claimed and defined by Cornelius Kok; not the line Mr. Rabie says in his "deposition" was claimed by Waterboer. That the

* *Vide* p. 126, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope,"—London, August 17, 1871.

latter "denied all knowledge of *any line whatever between them*" is simply false. By the words of the "Report,"—"he had requested Adam Kok to decide *the line between them*!"—positively admitting the existence of a line between them, about which they differed, and to decide which Adam Kok was called upon as arbitrator; the result being the making of the Vetberg line. It seems almost incredible that such high officials as the Colonial Secretary and Attorney-General can either make such egregious errors, or such gross misrepresentations.

If word for word Mr. Rabie's "Declaration" had agreed with his "Report" made sixteen years before, then, indeed, it would have had a strange appearance. Referring to his Commission in 1854, he concludes with the following just and particularly pertinent remarks:—

"In that time there was no question whether or not Cornelius Kok was Captain of Campbell. Captain Waterboer never disputed it.

"If there ever was an opportunity for Waterboer to have disputed the authority of Cornelius Kok over Campbell it was the present, of which he did not avail himself."

* 3. "[*Translation from the original.*]

"Campbell, August 22, 1845.

"Sir,—In consequence of having agreed with my Council to remind you again that my territory stretches *from the Orange River* to Blesberg, and thence *to Riet River*, named Blaauwbank, and from there further to Van Wyk's Valley, *and further (to) Platberg*, on the Vaal River; so it is my friendly request to prevent any disturbance.

"I have, &c.,

(Signed) "CORNELIUS KOK, Captain of Campbell."

RAWSTORNE, Esq., Philippolis.

* *Vide* p. 120, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope."—London, August 17, 1871.

Mr. Rawstorne was then British Civil Commissioner of Colesberg. The boundary here described is almost precisely similar to that defined by the document quoted in Mr. Rabie's "Report" in 1854.

4. * "[*Translation from the original.*]"

"Esteemed Mr. JACOBS,

"Sir,—I have the pleasure to acknowledge the receipt of your letter which came to my hand concerning your wish to know the limit and division of the districts between us, the one and the other Chiefs of the districts ;—(it) was already known in the early days that Griquastad was made the first settlement, that where Vaal River and Riet River flow together on the south side of Riet River between Zwaart (Orange) River belonged to Griquastad, from there east up reaching to the Keil, from there across, beginning from the north side a direct line south-eastwards along from Ramah to Zwaart (Orange) River, reaching along the west side of Bleskop (or Blesberg).

Yours, &c.,

(Signed) "A. WATERBOER, Captain."

"To Mr. JACOBS, living at Riet River.

Griquastad, 10th February, 1846.

"A correct translation of the original in my office,

"F. K. HÖHNZ, Government Secretary."

The coincidence between these two letters, and, indeed, the plain way in which all the documents produced as evidence by the Free State corroborate one another, furnish satisfactory proof of the merit of the case. The letters of both Chiefs agree very closely as to the line between them. In fact, *the mean of the two will be found to be the Vetberg line.* Waterboer's letter describes his eastern boundary, that of Albania, and agrees with what Mr. Rabie in his 'Deposition' declares that Chief explained to him: Cornelius Kok's

* *Vide* p. 18, Blue Book, "Further Correspondence, respecting the affairs of the Cape of Good Hope."—London, February 6th, 1872.

reply to Mr. Rawstorne defines his western boundary, and coincides with both Waterboer's account and the Vetberg line.

Acting upon their predetermined system, the luminaries of the Cape Government at once proceeded to deny and ignore the authenticity and existence of these two important political and historical documents. Upon what authority? As usual, Waterboer's *ipse dixit*!

In a despatch dated "Cape Town, October 23, 1871," Sir H. Barkly thus disposes of the letter last quoted, quite to his own satisfaction:

* "I am now in a position to state that its authenticity is challenged by Captain Nicolas Waterboer, on grounds which have satisfied himself and Raad *that it must be a fabrication*. At any rate, that letter was neither produced nor cited by your Honour and Mr. Hutton when in Cape Town; an omission all the more remarkable, if its purport be, as now asserted, so intelligible and explicit, and its authenticity so unquestionable."

Sir H. Barkly's blind partizanship carried him too far here. Seeking to throw discredit upon the veracity and honour of the Free State Government, he laid himself open to the following crushing rejoinder,—President Brand's reply, dated "Bloemfontein, 6th November, 1871:"—

† "With reference to the allegations of Captain N. Waterboer, that the autograph letter of his father, Captain A. Waterboer, to Mr. Jacobs . . . is a spurious document, the Government of the Orange Free State have the honour to observe, that the handwriting and signature of another letter of Captain A. Waterboer, in the Government office, entirely corresponds with this one; and that

* *Vide* p. 29, Blue Book, "Further Correspondence respecting the affairs of the Cape of Good Hope."—London, February 6, 1872.

† *Vide* p. 56.—*Ibid*.

the following is written on a piece of paper attached to this letter and the letter of Captain C. Kok —

‘ Letter from Captain Waterboer
to
Mr. Jacobs,
dated 10th February, 1846.’

‘ Letter from Captain C. Kok
to
F. Rawstorne, Esq.,
dated 22nd August, 1845.’

‘ Both the above letters define the boundaries
of these Chiefs.’

by the late Mr. J. Allison, Clerk to the British Resident, Major Warden, and Registrar of Deeds during the time of the Sovereignty.

It does not appear why, by whom, with what object, and for what purpose, a fabrication, as alleged by Captain N. Waterboer, of a document found amongst the papers left by the British Government, upon the abandonment of the Sovereignty, should have been made.”

Instead of the Government of the Free State being responsible for these two documents, as expressly implied by Sir H. Barkly, it seems that they were received, docketed, and handed over as State papers by the British Government itself! This attempt to shake their value and authenticity, is only upon a par with all Sir H. Barkly's quips and quibbles and worse misrepresentations.

5. The following document, if genuine, fully establishes the fact, that Captain Cornelius Kok was the sole and independent Chief of Campbell. It is endorsed and guaranteed by the Government of the Orange Free State; and many of those who, in the person of Mr. M. A. Oberholster, were the second party to the agreement, are still living witnesses of its authenticity—to shake which, moreover, no evidence

has ever yet (January, 1873) been adduced by the other side. It also proves the right of Cornelius Kok to the land south of the Vaal, which he and his people originally sold to subjects of the Free State, between that river and the line now seized and claimed as Waterboer's from David's Graf to Platberg.

* "On this 8th day of August, 1840, we, the undersigned, Chief Cornelius Kok, Captain, and Jan Bloem, Captain, acknowledge and declare by virtue of treaty in the name of our whole tribes in one bond of friendship to have agreed—

"1st. We, the undersigned, Chiefs in Council, accept of the immigrated colonists now amongst us on these grounds as our friends and allies, and will henceforth show them every respect and friendship.

"2nd. We declare it is with our consent that (*a*) the line from Rama, with a straight line to the junction of the Modder and Riet Rivers, and thence on Platberg, on the Vaal River; up along the Vaal River to the Tiekwas River, has been fixed, which line between our northern tribes shall be the boundary line for the colonists herein alluded to, during the time they shall reside on those grounds.

"3rd. We will acknowledge Mr. M. A. Oberholster as Chief and ruler over these immigrated colonists, and will ourselves show every respect to his field-cornets, joint rulers.

"4th. We will never, with our knowledge of the matter, allow that anything in opposition to the rights of man shall be committed against any household or single individual amongst the colonists; but on the contrary, whenever it shall be brought to our knowledge that any colonists have received injury to their persons or property, we will never fail to search out and even to aid in the punishment of the offenders.

"5th. We shall, unless the utmost necessity demands it, never go to war with our joint tribes, but will, on the contrary, use our utmost endeavours to live in peace and unity with our co-allies.

"6th. If it should happen that any difference or dispute arise between us and our co-Griquas, we shall always endeavour to settle

* *Vide* p. 120, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope."—London, Aug. 17, 1871.

the cases amicably; should we fail in adjusting the difference between us, we shall call in Mr. M. A. Oberholster and his councillors, as our allies, to aid in settling the difference.

"7th. As appears by treaty of the 16th June, 1840, agreed on between the colonists and the Griquas of Philippolis, and as we have this day entered into a treaty of friendship with the colonists, we view and acknowledge the Griquas of Philippolis and those of Roelandt, also as our friends and co-allies.

"With our signatures we authorize,

"CORNELIUS KOK, Captain.

JAN BLOEM, Captain.

"Council—GERT BEKUS.

" WILLEM KOK.

" GERT KOK.

" JOHANNES DE WEE.

"Thus done on the 8th August, 1840."

"A true translation of a copy in possession
of the Chief ADAM KOK.

"F. REX, Sworn Translator."

(a) Here we see that the line now seized for Waterboer was, in 1840, the boundary between Cornelius Kok and those who in 1854 became the burghers of the Free State. That line, moreover, *ceased to exist at least thirty years ago*; consequent upon the fact that from 1840 farms on and beyond it were continually being sold by Cornelius Kok to the white settlers, whose frontier advanced with their acquisitions.

CHAPTER XI.

THE GOVERNMENT OF THE CAPE OF GOOD HOPE TAKES PART WITH WATERBOER, ENDORSES HIS CLAIMS, AND SUPPORTS HIS CASE AGAINST THE ORANGE FREE STATE.

RESULTS OF THE MEETING AT NOOITGEDACHT.—PRESIDENT BRAND'S DESPATCH: IT ELICITS THE FACT THAT WATERBOER WAS ALREADY IN SECRET CORRESPONDENCE WITH THE COLONIAL GOVERNMENT, AND HAD OFFERED IT JURISDICTION OVER THE DIAMOND FIELDS.—DOCUMENTARY PROOF THAT THE COLONIAL GOVERNMENT HAD NO RIGHT TO INTERFERE.—GENERAL HAY'S DESPATCHES TO THE FREE STATE, IN SUPPORT OF WATERBOER, ANALYZED; THEIR MISSTATEMENTS AND MISREPRESENTATIONS EXPOSED.—GENERAL HAY'S APPOINTMENT OF A BRITISH MAGISTRACY OVER FREE STATE TERRITORY (THE DIAMOND FIELDS) EQUIVALENT TO A DECLARATION OF WAR.—THE RIGHT HON. H. LABOUCHERE'S INTERPRETATION OF OUR DUTIES TO THE FREE STATE.

In Chapter VI. I pointed out the inordinate anxiety displayed and acted up to by the Government of the Orange Free State, in its differences with Waterboer, to treat that very petty chief, but very disagreeable neighbour, with justice and consideration; giving, as the last practical illustration of so forbearing and weak a policy, the "meeting at Nooitgedacht."

Having subsequently fully investigated and analyzed the whole of the evidence produced on either side, in Chapters VII. to X. inclusive, my readers will be able to judge as to the justice of the policy pursued

by the Free State Government after the meeting,—which, as I have already described in Chapter VI, failed to effect any settlement by reason of Waterboer's own conduct, and abrupt, unmannerly departure.

President Brand thus states the conclusion to which he came with his Executive Council :

* "After the Chief Waterboer and his Councillors had abruptly departed, we proceeded to consider the evidence and documents produced on both sides . . . and we came to the conclusion that the Chief Waterboer had failed to show any title to the lands claimed by him, and that nothing had been adduced to invalidate the rights of the Orange Free State Government."

As it had been previously agreed by both sides that only the question of right to the *Campbell lands* should be brought forward at the meeting at Nooitgedacht, and as Waterboer strove to support his claim to a line from *Ramah viâ David's Graf to Platberg* (although not one title of proof did he produce of right either to that or the lands properly in question), President Brand had no other course.

The Colonial Government, in trying to find pretences for seizing the diamond-fields, denounces this as a decision by the Free State in its own favour, totally ignoring, of course, the following facts :

1. That this was not an ordinary case of disputed right, for that the defendants were the Government of a State which had been in indisputable possession of part of the ground in question for nineteen years—the

* *Vide* p. 18, Capetown Blue Book, (No. 1), 1871, Despatch, "President Brand to Lieut.-Gen. Hay," dated "Bloemfontein, 24th September, 1870."

whole period of the State's existence ! And that many other parts of the territory cut off by the line claimed by Waterboer, had been for a quarter of a century in the possession of those settlers who became its people.

2. That other portions of this territory (thirty-three extensive sheep or cattle farms, in fact) had been given and made over to the Free State, which was compelled to guarantee the owners of those farms their future rights and possession, by the British Government itself.

3. That all the remaining portions of the disputed territory had been purchased from Adam Kok, the rightful Chief and owner, for a nominal sum of £4000, which, however, was greatly increased.

Under these circumstances was not the President and Ministry justified—was it not, indeed, palpably their duty, their only course—to retain their ancient possessions, and to maintain their right to what they had undeniably purchased ? Why, it is plain that they would have been traitors to their country had they acted otherwise !

So far as the Free State was concerned the meeting at Nooitgedacht resulted in a Proclamation by the Government, dated “ 29th August, 1870,” which, after pointing out the fact that Waterboer had

“ No right whatever to the grounds of the late Captain Cornelius Kok . . . which grounds were sold to the Government of the Orange Free State . . . as has on several occasions already been proclaimed.”

and after defining the boundaries of the Campbell-grounds, concludes :

“ Therefore I hereby proclaim that the grounds, as above described, are the property of the Orange Free State . . . the

lines, as above described, will, by a Commission to be nominated by me, be beaconed off on Thursday, 22nd September, 1870, beginning at the junction of the Harts and Vaal Rivers. . . .

“ (Signed) J. H. BRAND, State President.

“ By order, F. K. HOHNE,
“ Government Secretary.”

This proclamation elicited the fact that Waterboer had for some time been in secret communication with the Colonial Government, and that, in order to induce the officials thereof to support him, he had offered (or *been induced* to offer ?) to place himself and people under British Sovereignty, had offered to them the rule and disposal of the diamond-fields, another nation's *bona-fide* property !

No wonder the crafty Mulatto took care to break up the meeting at Nooitgedacht without settling anything !

The bait took. Such a chance to secure the diamond-fields—then thought of with the greatest exaggeration, at a time when stones never worth more than £100 were selling for over £2,000—was not to be neglected ; Waterboer's *ex parte* statements were instantly taken up and maintained by the Colonial Government, and I publish the accusation in the most positive and unhesitating manner.

The first step taken by the Colonial Government was deliberately hostile to the Orange Free State.

In the first place they had no right whatsoever to interfere with the diamond-fields, or any territorial or other question between natives and that state.

E. g. Art. II. of the Convention of 1854 between the two Governments expressly declares :

“ The British Government has *no alliance whatever* with any native Chiefs or Tribes to the northward of the Orange River, with the

exception of the Griqua Chief, Captain Adam Kok; * and *Her Majesty's Government has no wish or intention to enter hereafter into any Treaties which may be injurious or prejudicial to the interests of the Orange River Government.*"

That the support of Waterboer's fraudulent claim to a large tract of the Orange Free State was both "injurious" and "prejudicial" to the interests of that State, needs no argument; but in what terms should be condemned the actual seizure of that territory professedly for Waterboer, by the Colonial Government, by armed force, *pendente lite*, before either the plaintiff had proved his claim, or the defendant's case had been heard in reply?

2. Before the Convention of 1854 was executed, the Duke of Newcastle, in a despatch† dated "Downing Street, November 14th, 1853," directed the Special Commissioner, Sir George Clerk,

"That the bases" (of the proposed Convention) "should be . . . in the form of Articles . . . of a treaty *between independent powers*. The articles agreed on with the Transvaal boers appear to furnish a ready precedent for such a Convention."

The Articles referred to,

"Guarantee, in the fullest manner, on the part of the British Government, to the emigrant farmers beyond the Vaal, *the right to manage their own affairs*, and to govern themselves, *without any interference on the part of Her Majesty the Queen's Government, and that no encroachment shall be made by the said Government on the territory beyond to the north of the Vaal River* . . . it being understood that this system of non-interference is binding upon both parties."‡

* Adam Kok having departed with all his people, in 1862—3, is out of the case.

† *Vide* p. 88, Art. 7, Blue Book, No. 3, "Orange River Correspondence," 1851-4."

‡ *Vide* p. 36, Blue Book, No. 2, "Orange River Correspondence, 1851—4.

This Treaty has been law ever since it was made. What, I should like to know, does Her Majesty's Government term the seizure of the Campbell-lands—all being "North of the Vaal River"? If it is not a very considerable "encroachment," and a very gross violation of all the terms of the Treaty, then has the English language lost its old meaning!

The Convention entered into with the Orange Free State in 1854, was founded upon the above; and how that was interpreted (and has been, ever since its origin, until the discovery of diamonds) is fully explained in a reply from the Office of the Secretary of State for the Colonies, dated "Downing Street, July 22nd, 1853," to

"A memorial agreed upon at a meeting of delegates from the committee of the societies therein named, relative to the conduct of the boers towards the natives in the Trans-Vaal territory . . .

"The Duke of Newcastle requests that you will state . . . that the *friendly offices* of the British Government . . . shall be used to induce the Trans-Vaal boers to respect the rights of the natives, but as the Convention with those boers recognized their independence, *any act of interference which might lead to collision is totally out of the question.*"*

England's honour, and her treaty obligations, were respected in those days!

Having proved by the stipulations of the two existing Treaties with the South African Republic and the Orange Free State, as well as by the unmistakeable words and interpretation of a former British Government, that England had no right whatever to interfere in Waterboer's case—no right whatever to do more than she would have dared to do with Prussia or the

* *Vide* p. 87, Blue Book, No. 3, "Orange River Correspondence 1851—4."

United States, *viz.*, use her "friendly offices," I will now proceed to point out the unfriendly, hostile, and unwarrantable course really pursued towards the Free State, in order to steal its diamond-fields.

As we have seen, the result of the meeting at Nooitgedacht transpired in President Brand's Proclamation.

By the despatches I am about to quote, bearing date 15th and 19th September, 1870, written by the Colonial Government in reply to, or in consequence of that Proclamation, it will be seen that instead of causing their correspondent Waterboer, the plaintiff to lands neither then nor ever before in his possession, to prove his case, they not only at once accepted and endorsed his mere *ipse dixit*, his *ex-parte* statements, but actually so far outraged the entire letter and spirit of British jurisprudence as to call, with a cool and unparalleled audacity, *upon the defendants*, the Orange Free State, to prove its title to its own property; its claim to territory *de jure* and *de facto* its own; its right, in fact, to itself!

From the 15th September, 1870, we may date a new era in the political history of Adamantia, which may be described as the controversial period, the beginning of which was initiated on the day mentioned by the first despatch from a British official calling in question the right of the Free State to that territory, and affirming the claims of Waterboer.

In order to justify the words of my preface, as to the "*gross misrepresentations and false evidence*" supplied by the Colonial Government,—the "selfish, illegal, and dishonourable combination to plunder the Free State of the diamond-fields,"—I find the best way will be to

subject the despatches of that Government to critical analysis by the plan of parallel columns.

* "Government House, Cape Town, 15th September, 1870.

"His Honour the President of the Orange Free State.

DESPATCH.

"Sir,—I observe by the *Friend of the Free State* newspaper of the 8th inst., that you have, by Proclamation dated at Klipdrift, on the Vaal River, the 29th August last, proclaimed certain lands north of the Vaal River, and commonly called the Campbell lands, to be Free State property, by virtue of a deed of sale, dated 26th December, 1861, executed by Mr. Henry Harvey, purporting to be the authorized Agent of Captain Adam Kok.

REMARKS.

Although this is the least important of the despatches in question, so far as my object is concerned, it still has some historical value as being the beginning of the dispute between the British Government and the Orange Free State, and it also proves the previous correspondence, or understanding, existing between Waterboer and the Colonial authorities.

That word "purporting," in the first despatch, shows the *animus* of the Colonial Government.

(a.) *And as I am in communication with the Griqua Chief Waterboer on the subject of lands claimed by him, and over which he and his people appear to be desirous that Her Majesty the Queen should exercise Sovereignty, I shall be glad if you will furnish me with any proofs your Government may possess respecting said purchase from Mr. H. Harvey, and of his authority to sell in the name of Adam Kok, as well as of Adam Kok's title to such lands.*

(a.) That the Colonial Government being "in communication with Waterboer," and entertaining "the subject of lands claimed by him" from the Free State, was illegal,* was unfriendly and hostile to the Free State, is proved by the terms of "Art. II. of the Convention of 1854, as well as by the Treaty with the Trans-vaal boers, and by the words of the Duke of Newcastle—the three official papers quoted a few pages before.

2. By communications received by me from the Chief Waterboer,

No doubt Waterboer was "desirous that Her Majesty should exercise Sovereignty"

* Vide p. 4, Cape Town Blue Book, No. 1, 1871.

it appears that he not only claims the Campbell lands on the right Bank of the Vaal River to be Griqua territory, but also lands on the left bank of the said river, extending to lines drawn (b) *from Ramah on the Orange River to 'David's Graf,' near the confluences of the Riet and Modder Rivers, and thence to Platberg on the Vaal River.*

3. "It will become my duty shortly to bring these matters under the consideration of Her Majesty's Government, and I shall be glad if your Honour will be pleased to favour me with (c) information relative to the title, *if any (sic)*, possessed by the Orange Free State to the lands east of the Vaal River.

4. "I am aware that the Free State claims them, but I am *not* in possession of any proof of title.

5. "I find that my predecessor in office, who was requested by your Government and by the Chief Waterboer to arbitrate between them respecting their (d) *territorial rights*, suggested to you, on the 24th August, 1869, that you should communicate to him clearly and distinctly the several questions in which the disagreement sub-

over the diamond fields, or Adamantia, which is just the territory cut off from the Free State by the "lines" mentioned! It was the only way he could get a finger in the diamondiferous pie, for, certes, with his wretched 200 yellow-skins he could not wrest it by force from the Free State! But by what title, law, to authority does the ostensible writer of the despatch, General Hay, prove that he had any right to thus question the Free State in Waterboer's interest? Have we not shown that his duty was exactly the reverse? That only "friendly offices" were justified?

(b) This is the first official declaration of, and claim to the line from "Ramah, *viâ David's Graf*, to Platberg," by or for Waterboer.

(c) General Hay should have read the Convention of 1854, ascertained the titles given over by the Sovereignty, and have found out how all his predecessors in the gubernatorial office had acted, then he would have known what "title" the Free State "possessed"! It is difficult to believe that a British General, Governor, and High Commissioner for the Cape can have been really so lamentably ignorant of his duties, of the previous political and general history of the country! One would think, instead, some

sisted, to be accompanied by a sketch of the country, showing the principal disputed points, which does not appear as yet to have been complied with.

6. (e) Under all these circumstances, I take leave to suggest that it will be premature for the Government of the Orange Free State to proceed to the planting of beacons, as stated in the proclamation before-mentioned to be its intention,—and awaiting your reply,

“I have, &c.,

“C. HAY,

“Lieut.-Gen., ad High Commissioner.”

sinister motive existed for the pretence.

(d) This is a misstatement; the right to the Campbell-lands was offered for arbitration. And that offer having been negatived and withdrawn, the subject having been settled was defunct and irrelevant. General Hay demands compliance. Compliance with what? The Free State's own obsolete wishes?

(e) The arrogance of this unjustifiable and cowardly menace is supreme! Would General Hay have dared to make it to a military power, say France or Germany? By what right did he break the convention of 1854, &c., and forbid the Free State to plant beacons to its own (or alleged) territory? Does not the *animus furandi*, as applied to the diamond fields, already begin to appear?

The Government of the Free State having early in September appointed a special Commissioner for its diamond fields, then beginning to get rapidly thronged with diggers, the Colonial Government became furious, considering that act, no doubt, as inimical to their plan or intention to obtain, through Waterboer, the diamond fields for themselves. In no other way can their interference at all,—the temper they displayed at this news, and the partizanship of which their every despatch convicts them,—be accounted for.

On the 19th September, *only four days after the first despatch*, they threw off the faint mask of impar-

tiality, and clearly took sides with Waterboer, by the following insolent, illogical, undiplomatic, and ill-tempered composition :—

* "Government House, Cape Town, 19th September, 1870.

"His Honour the President of the Orange Free State.

DESPATCH.

"Sir,—Since addressing to you my despatch of 15th inst., I have observed by the public newspapers that your Government has, after issuing the Proclamation to which in that communication I alluded, (a) *taken further action*, and appointed a Mr. O. J. Truter to be Commissioner for the diamond fields, and Justice of the Peace for the whole State, including, I presume, the territory claimed by the Chief Waterboer, and, if so, *assuming jurisdiction* over a large number of British subjects at present residing within that territory.

REMARKS.

(a) What does General Hay intend to imply by this expression? It is a case of muddy stream for the hungry wolf! Why should not the Free State Government have "*taken further action*," by appointing a special Commissioner in its own territory? Mr. Truter was placed at PNIEL,—proved, in our review of Waterboer's *Annexure No. 8*, Chapter IX., to have been sold by Cornelius Kok to the Berlin Missionary Society, twenty-five years ago, and never since, till now, claimed by either of the Waterboers. *From the year 1854, moreover, Pniel was always included within the jurisdiction of a Free State Magistracy,—for years that of Jacobsdal!* Is this nineteen years' legal possession to be described as "*assuming jurisdiction*"?

"I, therefore, deem it my duty to draw your Honour's attention to certain facts" (?) "respecting the territory in question, as shown by documents in my possession; and to acquaint you that (b) *I shall at once issue a notice to all British subjects, warn-*

General Hay's facts will be found of the nature of those of which it has well been said, "there is nothing so fallacious as 'figures,' except 'facts.'"

(b) This notification was tantamount to a declaration of war, as issued against a friendly

* Vide p. 5, Cape Town Blue Book, No. 1, 1871.

ing them against being parties to the assumption of territorial rights
 OVER LANDS (c) BELONGING TO NATIVE CHIEFS AND PEOPLE, by in any way aiding and abetting such assumption, or by acknowledging those rights; and in order that all may understand the aspect which the present position of affairs seems to me to bear, I shall publish this and my previous despatch and other documents in elucidation thereof.

"You are aware that long before Sir Harry Smith . . . proclaimed the Sovereignty of Her Majesty the Queen of England over certain territories north of the Orange River, her Majesty was in alliance by treaty (d) with the Chief Waterboer . . . and that the territories of the said Chief were not included in those over which her Majesty's Sovereignty was proclaimed.

"Before the period above alluded to, and in the year 1838, as appears by the *annexed* (e) ex-

State, and did eventually nearly attain that result.

(c) Here is the first positive recognition of Waterboer's *ex parte* and fraudulent claims; the diamond fields are declared to be "LANDS BELONGING TO NATIVE CHIEFS AND PEOPLE!"

After this distinct avowal of partizanship, all argument (as may well be supposed) proved futile. Everything Waterboer asserted was eagerly accepted as Gospel; everything the Free State alleged was just as readily and certainly contradicted!

(d) This assertion is a most deliberate case of *suppressio veri suggestio falsi*! Does General Hay mean to deny the fact, that General Sir George Cathcart cancelled the treaty in question? In a despatch* to the Duke of Newcastle, dated "Graham's Town, March 15, 1853, Sir George Cathcart states "*As there were certain stipulations in the treaty . . . which would be incompatible with the Convention entered into with the Transvaal emigrants, I have declined to renew it in favour of the existing interest.*" It never was renewed! We have previously shown that Waterboer's territories "were not included" within the Sovereignty, because they were north of the Vaal; a fact General Hay

* *Vide* p. 2, Blue Book No. 3, "Orange River Correspondence, 1851-4."

tract from a written agreement then entered into between Waterboer and Adam Kok, the Griqua people divided themselves into two separate and independent portions; one portion to remain under the supremacy of Andries Waterboer, the predecessor of the present Captain Nicolas Waterboer, as chief, and resident at Griqua Town, the other portion under that of Adam Kok, whose residence was at Philipopolis. By that agreement it was stipulated that Waterboer's Eastern boundary should be (f) FROM RAMAH NORTHWARD TO PLATBERG. And so much of this boundary as extends (g) from Ramah on the Orange River to David's Graf, near the confluence of Riet and Modder Rivers, has frequently since, in treaties and other public documents, been admitted by Kok and Waterboer, and by the Governors of this Colony, to be that dividing the two portions of the Griqua territory (h). The continuation of the eastern boundary of Waterboer northwards from David's Graf to Platberg is not brought forward in the latter of these particular documents with the same prominence, by reason of the fact that in all of them Adam Kok's territory was treated as confined on the north by the line of the Modder River; and

should have taken the trouble to ascertain.

(e) This "annexed agreement" is none other than Waterboer's *Annexure No. 5*, of which we disposed in Chapter VIII.

It will be seen that General Hay fully accepts all Waterboer's false and crafty case—the main object being to ignore Cornelius Kok.

(f) General Hay here actually descends to *garble and falsify* the spurious document he pretends to quote! This is the passage: "The boundary of the Western portion, ruled by Andries Waterboer at Griqua Town, will be FROM RAMAH ON THE EAST, ALONG THE BOUNDARY OF THE COLONY WESTWARD TO KHEIS, AND NORTHWARDS TO PLATBERG."*

(g) This is a gross misrepresentation. *No such extent of boundary is mentioned; no such place as "David's Graf" is even named* in the spurious agreement, Waterboer's *Annexure No. 5*!

The line from Ramah to David's Graf having been made subsequent to 1840, could not have been described by an "agreement" dated 1838. It "has frequently since, in treaties, &c., been admitted by Kok and Waterboer, &c."; but as a boundary between the Captains Adam

* *Vide* pp. 7 and 73, Cape Town Blue Book, No. 1, 1871, and p. 34, Annexures, O.F.S. Blue Book, "Minutes of Meeting at Nooitgedacht."

consequently with Waterboer's Eastern boundary, North of David's Graf, Adam Kok had no concern.

and Cornelius Kok—not Waterboer! As we have previously shown, he never had anything to do with that line, until the Free State, in 1855, was the first to recognize his right to Albania, between that line and the Vetberg line. (See pp. 71 and 82, Chapter IV.)

(h) Another misrepresentation! General Hay says that the continuation of the line "*from David's Graf to Platberg is not brought forward with the same prominence.*" — Why, it is not mentioned at all!

(i) "So far, therefore, these documents appear to substantiate the claim which Waterboer maintains to lands northward and westward of lines drawn from Ramah to David's Graf, and thence to Platberg.

(i) As we have proved and argued already *usque ad nauseam*, no such line ever existed; until, in fact, it was for the very first time officially endorsed and described by General Hay! The whole of this fraudulently trumped-up case rests upon the validity of Waterboer's *Annexure No. 5*, the alleged "agreement" of 1838, which is distorted and misquoted to try and make out a line from "Ramah northwards to Platberg," whereas, in letter, a line is described from Ramah *westwards to Kheis, and thence northwards to Platberg!* How poor "David's grave" is drawn into the matter, neither Waterboer nor his backers deign to explain. Of course, the responsibility to prove that the spurious "agreement" was fulfilled, and the alleged line ever maintained, rests upon Waterboer and Co.; but to do these

"But your Government alleges that in the year 1861, and, consequently, subsequent to the dates of the documents above mentioned, it has become possessed of certain portions of the territory held by Waterboer to be his, by virtue of the sale and cession made to it by one Henry Harvey, as the agent of Adam Kok, who, it is said, sold, and the Government of the Free

State purchased, not only the lands still remaining as Adam Kok's, but also the lands of Cornelius Kok, (i), a deceased relative of Adam Kok, who in his lifetime resided at Campbell.

"With regard to this alleged sale and purchase, Waterboer represents:—

"1st. (k) That Cornelius Kok was a British subject, born within this colony, and resident therein until of age; after which he came to Griqua Town, (l) and was by Andries Waterboer appointed a petty officer under his government and stationed at Campbell, where he continued to reside, and where he exercised the authority deputed to him by Waterboer until deprived of office for misconduct.

"2nd. (m) That during all this time, and thereafter until the death of Cornelius Kok, no fresh treaty or agreement had been made between Waterboer and Adam Kok, respecting boundaries.

things, they have not yet (January, 1873) condescended—evidently (and rightly the result proves) deeming the *argumentum baculinum* sufficient.

(j) The duplicity of representing Cornelius Kok thus, when he was the Captain and supreme Chief of Campbell, is most apparent.

(k) This applies equally to Andries Waterboer, the first Chief of that name.

(l) The entire falsehood of this statement, we have already fully proved (see, in especial, pp. 35 to 39, Chapter II., pp. 71—2, and 82, Chapter IV.; the review of *Annexure No. 6*, Chapter IX., and Chaps. VII., VIII., IX., and X. generally). Not one order or command of a Waterboer to Cornelius Kok has ever been produced! Not an atom of proof of his alleged deposition has ever been forthcoming! And we have seen that in 1857 he abdicated by his own will in favour of Adam Kok! and that Waterboer never protested!

(m) With regard to this paragraph, it is first of all necessary for Waterboer and Co. to prove the existence and execution of the alleged "treaty or agreement" of 1838.

(n) General Hay, in supporting this statement, displays, either gross ignorance or gross bias, if not something worse.

"3rd. (n) *That Cornelius Kok had no territorial rights, nor had Adam Kok any authority to sell, nor in fact, did he, by his power of attorney, (o) authorize Harvey to sell any portion of the Campbell Lands, over which Cornelius Kok's petty jurisdiction had at one time extended; and that his said power of attorney to Harvey was limited strictly to lands vested in him in his capacity as chief of the Griquas of the town and district of Philipopolis, to which the Campbell lands never belonged, and contains no reference to any lands claimed by him as heir to Cornelius Kok,—(p) which, in fact, Waterboer asserts he was not.*"

"In support of the foregoing propositions, Waterboer refers to the agreement of 1838, and other documents, among which are the following, viz. :

"(A) A letter from Adam Kok and his councillors to Governor Sir George Napier, dated 12th November, 1843, (q) in which reference is made to the *said*

Either he did not know of the formal recognition of Cornelius Kok as the territorial Chief of Campbell by the despatch from the Colonial Government—(*Annexure No. 1, quoted verbatim at the beginning of Chapter X.*)—or he chose to ignore it.

(o) The remainder of the "3rd" proposition is an intentional misstatement and garbling of facts. We have seen that Adam Kok *had* "authority" over the Campbell lands by his uncle's abdication in his favour in 1857; the power of attorney—(quoted at p. 91, Chapter V., *in extenso*)—gave Harvey unlimited authority to sell and dispose of all Adam Kok's territory, including, of course, that of the late Cornelius; the "deed of sale"—(quoted *in extenso*, p. 93, Chapter V.,)—expressly declares that Mr. Harvey had special authority to sell, not only Adam Kok's land, but "*likewise that of the late Cornelius Kok*:" Adam Kok agreed to this, took the money in payment, and Waterboer never objected until now!

(p) Our review of the Free State document, *Annexure No. 23*, in Chapter X., effectually proves, by his own words, that Adam Kok *was* the "*lawful successor*" of Cornelius.

(q) Reference is *not* made to "said treaty," only to "a treaty," which is not in any way described, and cannot be identi

treaty with Waterboer as defining the boundary between the latter and the writer.

“(B) A circular letter addressed by the (r) late Colonial Secretary of this Colony, Mr. Montagu, to A. Waterboer, Adam Kok, and Moshesh, dated 18th April, 1845, requesting answers to several queries respecting (among other things) the lines and conditions of their respective boundaries, in how far the same were defined by treaties, and what tribes were their neighbours; (s) with the answers thereto of Adam Kok and A. Waterboer, each of whom agrees in considering the other as his next neighbour, and admits that the line between them had been settled by treaty.

“(c) A paper addressed by Adam Kok to Waterboer, in 1848, representing that, as many of his people were leaving the Philippolis district, (t) *and proceeding to Campbell, they would in consequence be beyond his jurisdiction, and within that of Waterboer.*

“(D) The power of attorney granted by Adam Kok to

fied. The only “boundary” mentioned between the writer and Waterboer is *the place “Ramah.”* Not a word is said of the pseudo line “*from Ramah vid David’s Graf to Platberg!*”

(r) Is it not at least singular that General Hay can support a certain circular letter addressed to A. Waterboer by the *late* Colonial Secretary, but remains so calmly oblivious to the letter or despatch addressed to Cornelius Kok, by the *present* Colonial Secretary, on the 1st May, 1848?—*Annexure No. 1*, of the Free State case.

(s) These answers (*Annexures Nos. 7 and 8* of Waterboer’s case) have been already fully noticed in Chapter IX. We need only again observe that only the *kraal*, Ramah, is given as the boundary between the two Chiefs, and that nothing is said of a line “*from Ramah vid David’s Graf, to Platberg!*”

(t) This is a gross misquotation. The “paper” (*Annexure No. 13*, reviewed in Chapter IX.) distinctly mentions *two* districts, *viz.*, “the districts of Campbell and Griqua Town,” but only gives Waterboer power over *one*, to punish subjects of Adam Kok’s “guilty of any crime whatever *within the jurisdiction of Griqua Town*,” not Campbell!*

* *Vide* p. 42, Annexures, O. F. S. Blue Book, “Minutes of Meeting at Nooitgedacht.”

Harvey, under which the sale to the Free State was made. (u)

"(E) A notice published by Adam Kok, dated 15th November, 1862, in which he denies having authorized the sale of any rights to land north of the Vaal River. (r)

"(F) A letter addressed to Waterboer by the President of the Free State, dated 28th April, 1862, after the date of the alleged sale, in which the writer (w) *admits Waterboer's right of jurisdiction on the left bank of the Vaal River*, and invites a meeting at Jacobedal, a place near David's Graf, which latter spot Waterboer (x) *has always claimed* as one of the defining points of his boundary.

"These documents certainly appear to me to show a strong *prima facie* case in favour of (y) *Waterboer's right of sovereignty over the territory* which your proclamation claims as belonging to

(u) We have already sufficiently dealt with this document in Chapter V. By it, if Adam Kok was the "lawful successor" to Cornelius, all the latter's land was sold.

(v) General Hay overlooks the fact that this "notice" (reviewed at p. 97, Chapter V., and as *Annexure No. 36, Chapter IX.*) *fully admits the sale of the lands on "the South bank of the Vaal River, of the said Cornelius Kok,"* now claimed as Waterboer's!

(w) This is an inexcusable misrepresentation. The "letter" (fully noticed as *Annexure No. 30, Chapter IX.*), points out Waterboer's inefficient jurisdiction, but applies to *Albania*, recognized, after the treaty of the Vetberg line in 1855, and ever since by the Free State, as his *only* territory "on the left bank of the Vaal!"

(x) This is simply untrue. Until 1863-4, Waterboer *never claimed* David's Graf, but then Mr. David Arnot's supposed machinations led to an indirect claim; the first direct claim was made in 1870, after diamonds were discovered, and General Hay has the honour of being the first to support or recognise the pseudo line "*viâ David's Graf.*"

(y) This perverse view displays the strong predetermined bias in favour of Waterboer. *Not one of the "documents" even*

the Free State. (3) And as, though requested by my predecessor to furnish him with a plan, descriptive of the boundaries claimed by your Government, and proofs of such of them as you were in a position to prove, *you have declined, or at least omitted*, to furnish any such proof, I feel bound, provisionally, to form my opinion upon the evidence before me.

"This being so, and the Chief Waterboer having always acted in a faithful and friendly manner towards Her Majesty's Government, I think I should not be acting fairly by him *if I should allow*, without remonstrance or opposition, what at present, and in the absence of proof to the contrary, I must consider as *an unjustifiable encroachment upon his independent rights*. And I therefore notify to you that I do not acknowledge the claim of sovereignty put forward in your proclamation within the limits of the territory in dispute between you and Waterboer over any subjects of her Majesty resident or being therein.

"The concurrence of people at the diamond fields, however, has received my close consideration, and with a view to prevent the commission of crime or outrage

asserts the EXERCISE, at any time, of that chief's sovereignty over the territory in question — the Campbell lands!

(2) From this point to the end of his despatch, General Hay exhibits the *animus* of the Colonial Government, its wilful perversion of notorious facts, all of which must have been more familiar to it than to the public; its arrogant, hostile, and aggressive disposition to the Free State, and (proved by its subsequent acts) its determination to obtain the precious diamond fields by supporting, *per fas et nefas*, the insignificant, petty chief, Waterboer.

The fact that the "plan" and "proofs" asked for by his predecessor, *was through the request of the Free State*, and that by the departure of the said predecessor, and the withdrawal of the case from arbitration, in consequence, the matter had terminated, *is suppressed*, and it is falsely stated that the Free State "declined" to supply evidence!

What does General Hay mean by the gasconade, if he "should allow" the Free State to hold its own against Waterboer without "opposition?"

By what known right, title, or authority, or special order from the British Government, does he undertake to support Waterboer against the Free State?

Does he in ignorance or by

by any of Her Majesty's subjects therein, I have taken measures for the issuing of Magistrates' commissions giving jurisdiction over such subjects under the provisions of an Act of the Imperial Parliament, 26 & 27 Victoria, cap. xxxv.

"I have, &c.,

"C. HAY,

"Lieutenant-General,

"High Commissioner."

intention ignore the existing Treaties with the Free State and Transvaal Republics, and the distinct interpretations ever till then put upon them by the British Government?

His epilogue has one merit, *viz.*, that of brevity in coming to the point.

After denouncing the actual possession of its own territory by the Free States as an "*unjustifiable encroachment upon Waterboer's sovereign rights*," he proceeds to an act of undoubted "*unjustifiable encroachment*" himself, by declaring, at this early period of the proceedings, in his second despatch, *without waiting for any reply from the Free State*, the designs of his Government on the diamond fields,—*the appointment of British Magistrates thereon!*

The despatch we have just analyzed bears but one aspect. For the very first time in the political history of South Africa, Waterboer's fraudulent claims are given the honour and comfort of a respectable Government's support; and after elaborately and deceitfully setting forth, by a series of *preces armatae*, the details of those claims, his conclusions and wishes thereon, General Hay comes to the *primum mobile* at the last (at the very end of his despatch, as though shame had so long kept it back) by declaring his intention with regard to the *diamond fields*; and these things—the violation of *Art. 1* and *2* of the Convention of 1854—the hostile, unauthorized, and illegal interference in

favour of the ill-conditioned semi-savage Waterboer against the Free State, and the hostile invasion of its territory preparing and foretold by the statement "I have taken measures for the issuing of Magistrates' commissions giving jurisdiction" over what had been part of that State for nineteen years—the whole term of its existence—these things are tantamount to a declaration of war!

General Hay was, of course, at perfect liberty to think what he pleased, to offer "*friendly offices*" of his Government to any extent, and to entertain what view he chose of his correspondent Waterboer's claims; but the moment he proceeded to action, firstly by backing up, maintaining, and, in fact, interfering at all in any such case, he broke the existing treaty-law between Great Britain and the Free State; secondly, whilst by daring to proclaim and appoint a British magistracy over the disputed diamond fields (actually, *de jure* and *de facto*, for many years, Free State territory), he deliberately violated the most positive principle of international law, and unmistakably furnished a legal *casus belli* to that State.

The legitimacy of my second proposition is established by the existence of the Treaty or Convention of 1854, and by the fact that the Orange Free State has been for years in treaty alliance with, and recognized as a free and independent State by the United States of America, and all the principal Powers of Europe.

The first proposition is sufficiently proved by the terms of the existing treaties with the Transvaal and the Free State, disclaiming, as we have shown repeatedly, "*all alliances whatever and with whomsoever of the*

coloured nations north of the Vaal River" (*vide Treaty with the Transvaal*), or "*any interference on the part of Her Majesty's Government*;" "the British Government has no alliance whatever with any native chiefs or tribes to the northward of the Orange River . . . no wish or intention to enter hereafter into any treaties, &c." (*Art. 2, Convention of 1854*).

How General Hay misinterpreted his duties we have already shown. In a dispatch* to the Transvaal, or rather, the South African Republic, of the same date as that we have just dealt with, in claiming the diamond-fields for Waterboer, General Hay appends his name to this deliberate mistatement: he describes that Chief as one "*who is, and for many years has been, in treaty alliance with Her Majesty's Government!*"

Is General Hay ignorant of the fact that in 1853 "the treaty" with Waterboer "entered into by Sir B. D'Urban in 1834 . . . ceased to be in force?" that Sir George Cathcart "declined to renew it in favour of the existing interest"—the present Chief Waterboer—because it "would be incompatible with the Convention entered into with the Transvaal emigrants," and that, till this day, no fresh treaty was ever made with Waterboer? If so, he was deplorably ignorant of the duties of his high office; if not, in what words are we to condemn his inexcusable malversation?

I cannot conclude this effort to prove that the Colonial Government had no right to interfere in the question between Waterboer and the Free State, without quoting a few extracts from "A Despatch of the Right Hon. H. Labouchere, Secretary of State

* *Vide* p. 15, Cape Town Blue Book, No. 1, 1871.

to the Colonies, to Sir George Grey, High Commissioner and Governor of the Cape Colony," dated "Downing Street, June 5th, 1857,"* which seem to be remarkably *apropos* at the point to which we have arrived in the struggle for the diamond fields.

The Secretary of State thus worthily describes the policy of recognizing by treaty the Orange Free State and sister Republic as—

"A policy thus deliberately adopted, and embodied, moreover, in treaties which it is our duty faithfully to observe . . ."

"The independence of the two Republics must therefore be scrupulously respected by us, not only for the consistency in our policy, but also from the higher motive of a regard for our treaty engagements . . . and those treaties should be observed not only in their letter but in their spirit. We should be careful to respect the territorial limits which they assign to the Republics, as far as these are ascertainable according to the fair meaning of the terms, although they fail to define them with accuracy . . ."

" . . . As far as possible avoid mixing yourself up in disputes which may arise between them and the native tribes in their neighbourhood . . ."

" . . . I would recapitulate as follows:—To observe strictly the letter and the spirit of the treaties into which we have entered with the neighbouring States; to maintain the integrity of our possessions on the confines of these States, but to avoid any extension of their limits, to which they may justly object; and to forbear from mixing ourselves up with the affairs of the native tribes, except so far as may be clearly indispensable for the protection of Her Majesty's subjects."

It is by the knowing and wilful misapplication of this last sentence that the Colonial Government seeks to justify its first invasion, and subsequent armed seizure of that portion of the Free State which includes the diamond fields.

After what we have already seen, is it not evident,

* *Vide* p. 104, Blue Book, "Kaffir Tribes."—London, August, 1857. .

is it not, in fact, admitted by General Hay when he naïvely states, in his despatch of the 15th of September, 1870, that Waterboer had applied to be taken over with his people, and the lands belonging to, *and claimed*, by him, by the Colonial Government, that the sole object, the real motive of that august body in taking part against the Free State was to get hold of the longed-for diamond fields?

The extracts last quoted are, indeed, models of a just, an honourable, a noble policy! For an Englishman to compare that policy with this of the present day is to bring anger and humiliation upon himself if he be an honest man! Though so few years have elapsed, yet that righteous policy seems already to belong to the misty recollections of the distant, dead past! In those days—but yesterday as it were—we still possessed statesmen—a sense of national honour! And now? We truckle and submit to all our equals in strength; we have come to hail *arbitration*, whenever we are threatened, and to buy off our assailant, whenever our rights are called in question; whilst to compensate for the contumely and contempt with which we are treated in spite of our spiritless, senseless submission to the strong, and the anger and humiliation we secretly entertain in consequence, we do not hesitate to rob and plunder, even to make war upon any small State or nation very much weaker than ourselves! With what delightful *nonchalance* we pay America three and a half millions for what we never did! How sweetly we turn the other cheek to the smiter, and hand over San Juan with our water rights! With what prompt, heroic determination we make war upon Abyssinia, Ashantee, Bhootan, or the

Chinese Taipings! With what undaunted valour we blow the Kookas from the muzzles of our guns! How fiercely we hector the Government of the Orange Free State; outrage that non-military power in violation of all law or justice; despoil it of its diamond fields, and annex them to ourselves!

CHAPTER XII.

ANALYSIS OF THE FALSE EVIDENCE BY WHICH THE LATE COLONIAL GOVERNMENT SOUGHT TO JUSTIFY ITS SUPPORT OF WATERBOER, ITS DESIGNS ON THE DIAMOND FIELDS, AND ITS VIOLATION OF THE RIGHTS AND TERRITORY OF THE ORANGE FREE STATE.

ILLEGAL APPOINTMENT OF BRITISH MAGISTRATES TO THE DIAMOND FIELDS.—GENERAL HAY'S DESPATCHES ANALYZED, AND THE MISREPRESENTATIONS EXPOSED BY WHICH THE BRITISH GOVERNMENT WAS DECEIVED.—EARL KIMBERLEY'S ORIGINAL IDEA OF THE SLAVE-DEALING PROPENSITIES OF THE TWO REPUBLICS.—REVIEW OF GENERAL HAY'S OFFICIAL, ILLEGAL AND ILLOGICAL SUPPORT OF WATERBOER: HIS FALSE REPORTS TO EARL KIMBERLEY.—GENERAL HAY LIBELS THE LAST PRESIDENT OF THE FREE STATE.—HE MAKES A DIPLOMATIC JOKE, WHICH RECOILS UPON HIMSELF.—WATERBOER'S PETITION TO BECOME A BRITISH SUBJECT.—GENERAL HAY'S MISTATEMENTS IN RECOMMENDING IT.—UTTERLY FALSE PREMISES ON WHICH THE ACT IS BASED, APPOINTING BRITISH MAGISTRATES TO THE DIAMOND FIELDS.

Although, as pointed out in our last Chapter, the Orange Free State would have been perfectly justified in resisting by force the appointment of any foreign magistrates within its actual or claimed boundaries; and although, as against the Cape Colony alone, it would certainly have done so with a fair prospect of

success; it was not either strong or foolish enough to accept war against that Colony, backed up and supported by the whole power of Great Britain.

Consequently, instead of defying the threatened invasion, the Government of the Free State proceeded to protest against that proposed act, and to argue with their predetermined foes, Waterboer's special pleaders, the Colonial Government.

We have seen that General Hay founded his authority to appoint British Magistrates to the diamond fields, upon an Act, "26 and 27 Victoria, Cap. 35." Well, he grossly misinterpreted and misapplied that Act!

President Brand, in his reply (dated Bloemfontein, 1st October, 1870) to General Hay's hostile despatch of the 19th ult., states* :

"It is a clear general principle that the cognizance and punishment of crimes belong to the Government of the country where the crime was committed; and that it never was the intention of the Act quoted in your Excellency's letter to derogate from that principle, is evident from the words in the preamble, and section 1 of the Act,—‘AND NOT BEING WITHIN THE JURISDICTION OF ANY CIVILIZED GOVERNMENT,’ and from section 4."

General Hay's attempted justification is thus proved nugatory, for the country in which the diamond fields were situated, as we have so fully shown, was, and had been for many years, actually "within the jurisdiction of a civilized Government," that of the Free State. Whether General Hay chose to consider that occupation and possession legitimate or unrighteous, does not affect the case—it was a fact.

* Vide p. 25, Cape Town, Blue Book, No. 1.

The exact territory then known as diamondiferous, along the banks of the Vaal River, and to which people were flocking to dig for diamonds, had been part and parcel of the Free State for about thirteen years, mostly by rights of purchase derived from the late Captain Cornelius Kok; whilst, nearer to the line from Ramah *via* David's Graf to Platberg, the land had belonged to the Free State from the period of its creation in 1854.

Pniel being the most important and central of the diamond fields then opened, was chosen as the spot to which the Government of the State appointed its special Magistrate and Commissioner, Mr. O. J. Truter. In his reply to General Hay above quoted from, President Brand thus refers to that subject:—

“As it was necessary for the preservation of order and regularity at the diamond fields, situate in the district of Jacobsdal, on farms which have for the last thirteen years been enregistered in the office of the Registrar of Deeds, and in the possession and occupation of our people, to have a functionary on the spot, I appointed Mr. O. J. Truter on the 6th of last month.”

Hitherto the territory at and around Pniel had been subject to the jurisdiction of the Landdrost's Court established at Jacobsdal. Pniel (a considerable tract of land) was purchased from Captain Cornelius Kok in 1857, by the Berlin Missionary Society, as we proved in Chapter IX. by the deposition of the Rev. C. Wuras; that sale and the transfer therewith of sovereign or territorial rights (as was the rule in all such transactions with natives) has never been disputed by Waterboer before! never once been claimed by him during the quarter century that Mission Station has been established!

In every correct argument the minor premiss must

depend on the major. The view, conclusions, and action to which General Hay's 19th of September despatch process of inductive ratiocination led him, may be thus formally defined :

Major premiss : The diamond fields belong to Waterboer, a semi-savage. Where British subjects congregate, "not being within the jurisdiction of any civilized Government," magistrates may be appointed to rule over them by Act 26 and 27 Victoria, Cap. 35.

Minor premiss : British subjects congregate at the diamond fields.

Conclusion : Therefore I appoint magistrates.

Now, as General Hay himself admits the bodily existence of Mr. Commissioner Truter, and states from his own knowledge that he knew this Free State official had been appointed to rule over the diamond fields; and, as President Brand still further declares the jurisdiction of his, a civilized Government, over the said territory, General Hay's *major premiss* is destroyed. His logic is, indeed, extraordinary; yet upon it the Colonial Government acted, and proceeded, as declared, to appoint magistrates where those of the Free State already existed!

In spite of the documentary evidence (reviewed in Chapter X.) which President Brand, on the 20th Oct., 1870, supplied to the Colonial Government, that enlightened body persisted in the course of policy which it had deliberately adopted *previous to seeing the evidence on the part of the Free State*!

The *modus operandi* decided upon was very simple: to deny everything the Free State alleged; whilst giving to all Waterboer's unsupported assertions an

unquestioning support—but then the near prize, the diamond fields, was presumably great!

To deal with the whole voluminous mass of correspondence which has passed between the Colonial and Free State Governments since that fatal 19th of September; to analyze and criticise *seriatim*, as General Hay's wonderful production of that date has been treated, the subsequent despatches from his successors—equally illogical, equally full of the grossest mistatements and garbled quotations—and which, to this time (January, 1873), have not even yet ceased, is simply impossible in this work. Already the correspondence fills several large Blue Books, and a termination of the paper warfare seems as distant as ever. All I can do is, to expose the most glaring of the Colonial Government's false evidence; to take up and review the salient points and reasons on which it bases its different acts in the robbery of the diamond fields.

The Pniel diggings are situated on the south, or left bank of the Vaal River; in a district for many years, as previously explained, belonging to the Free State. Immediately opposite, on the other side of the river, are the older Klip-Drift diggings (at this time worked out). This latter place, not being within the limits of the Free State, but on ground claimed both by Kaffirs, Koranas, Waterboer, and the South African Republic, had, towards the latter part of 1870, become the resort of the "rowdy," or disorderly diggers. They first tried to start a sort of nondescript self-Government, or local Republic; then after General Hay's notification of the appointment of magistrates, strove to make war upon both the South African and

Free State Republics in fulfilment of the hostile instructions to British subjects therein conveyed; and finally accepted a Mr. John Campbell, the first of the magistrates appointed by General Hay, and who privately arrived at Klip-Drift, in a stealthy, surreptitious sort of way, early in the month of December, 1870.

For several months Mr. Campbell did nothing at all beyond assuming a sort of scouting post (though, doubtless, in receipt of a good round salary from Cape Town), as special magistrate over those who chose to recognize him. It was found that the powers he came armed with (Cap. 35, of 26 and 27 Victoria) were not sufficient, and so he could not open courts: so said the Colonial Government, later; but the truth seems to be, that he first of all felt his way with the temper and disposition of the diggers, and ascertained the position and feeling of the people of the surrounding States, so as to be able to judge as to the probable results of a further and more positive assumption of British authority and jurisdiction.

In justice to this gentleman, I must state that, whilst he occupied the above anomalous position, he managed to quash several armed attacks with which the rowdies of Klip-Drift, incited by General Hay's despatches of the 19th September, threatened the Transvaal authorities at Hebron, though it is very doubtful whether they would have ever dared to put their threats into execution even if left unmolested.

Having received power from *Waterboer*, in the form of a commission, to exercise authority over the diamond-fields (over, that is to say, territory for twenty-five years owned by Europeans, for thirteen to nineteen

years all included within the limits and jurisdiction of the Free State, and *never* in the history of the world in Waterboer's possession); and having also received the permission of Sir Henry Barkly, the new, and lately arrived, Governor and High Commissioner of the Cape, in succession to General Hay, who filled those offices temporarily,—Mr. Campbell began to assume power, by issuing the following notice* :—

“Special Magistrate's Office, Diamond Fields,
February 8th, 1871.

“GENTLEMEN,—I beg to acquaint you that *I am now duly authorized and empowered to levy and receive all licences in the disputed territory*. And I hereby warn you from paying said licences, or in any way being a party to such payments, except to me, as the legal and authorized party within this territory, or to the Committee of Management at Cawood's Hope.

“I have, &c.,

(Signed) “J. CAMPBELL, Special Magistrate.

“The Committee of Management,

“Cawood's Hope.”

Who “duly authorized and empowered” Mr. Campbell? Why, that poor savage, that head of a wretched horde of 200 very ill-conditioned half-castes, Waterboer! That man of straw, that handy puppet put up to represent the territorial right to the diamond fields, and then, by the already known and arranged dodge of petitioning for British protection, and offering his territories for annexation to the Cape Colony, to convey to it the diamond fields! That *only Waterboer and his backers “disputed” the “territory” in question*; that the Free State had not any dispute about it, and

* *Vide* p. 134, Blue Book, “Correspondence respecting the affairs of the Cape of Good Hope, London, August 17th, 1871.”

could not very well dispute its right to part of itself; and that Mr. Campbell was, what he has the temerity to term, "duly authorized and empowered" by only one of the *two* alleged parties to the dispute, *by only the claimant to lands actually and for many years held and possessed by the other party*;" these are all facts very carefully concealed!

Sir Henry Barkly in a despatch to Earl Kimberley, dated "Bloemfontein, O.F.S., March 8, 1871,* admits the principal of the above charges:—

"Having received my permission to act under *Waterboer's commission* . . . Mr. Campbell at length judged it necessary to take steps for asserting his authority."

Cawood's Hope, the place to where Waterboer's special magistrate directed his first manifesto, had then been lately populated as a new diamond field. Being within twenty miles of Pniel, and on the same side of the river, lower down, it was on Free State soil. At first the diggers readily admitted the rights of the Free State, and paid licences to its commissioner; but after the publication of General Hay's notorious 19th of September despatch, and Mr. Campbell's manifesto of 8th February, being mostly British subjects from the Colony, they obeyed those orders, and refused payment to the rightful authorities. They even, encouraged thereto by Mr. Campbell, prepared to maintain their illegal position by armed force.

If the Island of San Juan had been wholly claimed *and occupied* by Great Britain, and the Americans claiming it not for themselves, but for some Indian Chief who might have expressed a wish to place it under their

* *Vide* p. 132, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope, London, August 17th, 1871."

rule, had at once proceeded to appoint their magistrates to govern it, pending the formation and decision of a court of arbitration, proposed by them, between the puppet Indian Chief and Great Britain, it would have been in principle and in law a case exactly analogous to the arbitrary appointment of British magistrates over the diamond fields; except that, in the latter instance, there existed special treaties of which the act was a deliberate violation.

Mr. Campbell, being encouraged to such a course by Sir Henry Barkly, displayed his hand still further. Also, on the 8th February, he issued at Klip Drift the following notices *:

1. "Tenders will be received for the supply of such quantities of mealies or Kafir corn as may be required for the use of 100 armed and mounted police."

2. "Tenders will be received for the hire of a strong room, to be used as a lock-up, as also another to be used as a gaol, on the Pniel side of the river."

The progress from this point, of what an American would call "manifest destiny," was rapid. Pniel, as we have said, was then the seat of Mr. O. J. Truter's Government; but the "100 armed and mounted police" were already on their way from the Colony, and eventually turned him out, taking possession by armed force, of that district of the Free State.

Having arrived at this period of the robbery of the diamond fields, we must pause for a while, in order to observe the crafty devices and utterly false statements by which the British Government was induced to give its consent.

* *Vide* p. 134, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope, London, 17th August, 1871".

QUOTATIONS.

The first misrepresentations were conveyed in a despatch from General Hay to Earl Kimberley, dated "Cape Town, September 19, 1870."

"3. The dispute as to territorial rights existed long before the discovery of diamonds, and the Chief Waterboer (*a*) *has frequently and persistently endeavoured to induce the Free State Government to submit their differences to the arbitration of Her Majesty's High Commissioner in this Colony.* . . . This, however, they were unable to do, owing to the Free State insisting upon limiting the arbitration to certain lands situated on the right bank of the Vaal River, while Waterboer's claim extended to other lands situated on the left bank of the said river. . . . Afterwards I ascertained that he '(President Brand)' had appointed a Commissioner to the diamond fields, and (*b*) *ASSUMED judicial authority over the disputed territory*; and I have, therefore, addressed a further communication to him, and deemed it needful to issue a Government notice, warning all British subjects against aiding and abetting aggressions upon the territories of native inhabitants."

REMARKS.

It is necessary to remember the wording of *Articles* 1 and 2 of the Treaty or Convention of 1854 (quoted *in extenso*, Chapter III.), and the interpretation put thereon by the Duke of Newcastle, the Rt. Hon. H. Labouchere, &c., in reviewing these despatches.

(*a*) We have already shown (especially pp. 107—110 Chapter 6) that the Free State, *not Waterboer*, "has frequently and persistently" proposed arbitration as to territory (the Campbell lands) not actually for many years its own. General Hay makes no distinction, and would have it appear that the *whole* territory in dispute had been so "long before the discovery of diamonds," ignoring the fact that *he was* (so far as I can ascertain) *the first* to claim for Waterboer the line from Ramah, *via* David's Graf, to Platberg!

(*b*) The assertion that President Brand had "ASSUMED *judicial authority*" over what we have shown by a mass of evidence had been under his Government *from thirteen to nineteen years*, can only be characterised as a deliberate false statement. If General Hay did not know the truth, it was his duty to have investigated the matter, instead of passing his judgment, *and acting upon it*, on the very day he opened the case,

. . . "9. The people of West Griqua land, over whom Waterboer is the Chief (*c*) *have long been in alliance with Her Majesty's Government, by TREATIES entered into with the Governors of this Colony, and have invariably abided by and acted up to their engagements. (d) They are a much more civilized people than most other tribes inhabiting this part of Africa, and their Governmental institutions and laws are similar to and based upon those of this Colony.*"

(*e*) 10. "*I have reason to believe that these people will immediately petition Her Majesty to extend her sovereignty over their country, and receive them as British subjects. Should this be done, and should Her Majesty be pleased to accede to the prayer, I apprehend there will be very little, if any, difficulty in making satisfactory arrangements for their future Government, and they have ample resources for defraying the costs that may have to be incurred, exclusive of the increase that must arise from*

and before hearing a word from the Free State in defence!

(*c*.) This statement, also, I can only in honesty term a wilful falsehood. I have already shown (p. 81, Chapter IV.) that *the treaty* with the late A. Waterboer expired when that chief died in 1852, and the renewal with the present Waterboer, was most distinctly refused. It was *never* renewed. To what "*TREATIES*," and to which "*Governors*," does General Hay refer?

(*d*) Will General Hay compare this with his own words, "*untutored people* such as Waterboer and the members of his "*Council*," in his "*despatch to President Brand, October 15th, 1870?*"

(*e*) Here we have the true cause of the support of Waterboer!

There seems an air of duplicity about this statement. Why does not General Hay give his "*reason*," as he did in his despatch to President Brand, 15th September, 1870, when he declared that he was "*in communication with Waterboer on the subject?*" That abhorrent system of *suppressio veri suggestio falsi* permeates this concluding paragraph! The diamond fields, by implication, are treated as part of "*their country*"—the Griquas. It is then pretended that "*they have ample resources*," so as to prevent Ministers at home dread-

the recently discovered minerals underlying their soil.

"I have, &c.,

"(Signed) C. HAY.

Lieut.-Gen., Lieut.-Governor administering the Government."*

ing any expense. What resources, except of bad language, or what they hoped to steal from the Free State diamond fields, had those Griquas? The actual possession of that region by the Free State is carefully concealed. Nor is it stated that diamonds alone had caused the Colonial Government to listen to Waterboer.

On the 6th November, 1870, Earl Kimberley approved the action which I have described as taken by General Hay by his arrogant, aggressive, illogical, and biassed despatches of the 19th of September. Earl Kimberley wrote:

"I approve of the communications which you addressed to the Presidents of the Republics, and of the official notice which you issued on the subject."

Judging by late events, how remarkably different his Lordship's tone and language would have been had the Transatlantic "Republic" been the one concerned!

Let us examine now the reasons (and the value thereof) upon which Earl Kimberley bases his conclusion and approval.

In a despatch, dated "Downing Street, November 17, 1870," conveying instructions to Sir Henry Barkly, preparatory to his departure to assume the Governorship of the Cape of Good Hope, the Secretary of State repeats his approval of General Hay's

* *Vide* pp. 36-37, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope, August 17, 1871."

action towards the South African and Free State Republics

"Relative to the assertion of their claims to THE LANDS OF THE CHIEF WATERBOER!"*

evidently having been deceived by, and actually believing, General Hay's mistatement that the diamond fields were "the lands of Waterboer!" and that the Free State, since the discovery of the precious stones, instead of, as the fact existed, having been actually in possession of the ground for many years, had lately put forth "claims" to it!

But, worse than all, as a specimen of the high proficiency in knowledge of foreign peoples and British dependencies possessed by the present Secretary of State for the Colonies, is the reason he gives for his judgment,* viz. :—

"Her Majesty's Government would see with great dissatisfaction any encroachment on the Griqua territory by those Republics, WHICH WOULD OPEN TO THE BOERS AN EXTENDED FIELD FOR THEIR SLAVE-DEALING OPERATIONS (!), and probably lead to much oppression of the natives and disturbance of the peace."

So far as the Orange Free State is concerned, a more ignorant, utterly and totally unfounded slander was never uttered against a nation. Afterwards, when this or a similar effusion of Earl Kimberley's ideas became publicly known, he had the pleasure of very completely retracting the same.

Still, that, we see, was his reason for approving the hostile, illegal, and unrighteous course of bullying and robbery initiated against the Free State by General Hay!

* Vide p. 65, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope," London, 17th August, 1871.

With regard to Waterboer's expected application to have his territory (including, of course, the Free State diamond fields) taken under British sovereignty, Earl Kimberley's instructions to Sir Henry Barkly were :—

“ Her Majesty's Government have no wish (1), *if it can be avoided*, to extend the South African Colonies; (2) *but the case might be altered if that Colony should be willing to take upon itself the full responsibilities of Government, with the burden of maintaining the force necessary to keep order amongst the native tribes*; (3) *PROVIDED that the white immigrants concurred with the natives in desiring that the Griqua territory should be united to the Cape Colony*. You will, however, of course, in no case take any steps to annex this territory, or to pledge Her Majesty's Government to its annexation, without instructions from home.”

After this intimation, of course, it became the policy of the Colonial Government to make matters appear (1) so that the extension of the South African Colonies *could not “be avoided ;”* (2) that the Colony would be willing to undertake the “full responsibilities of Government,” etc.; (3) and that the “white immigrants,” the diggers, united with “the natives” (what natives? I never found any in the neighbourhood of the diamond fields, except Free State farmers) “in desiring” annexation to the Cape Colony. We shall see, by and by, how Sir H. Barkly carried out this policy.

Of course, as General Hay and Sir H. Barkly, successively, in the position of head of the Colonial Government, signed all the despatches, I blame and attack them, wherever necessary, although the whole of their colleagues, being better acquainted with the history and politics of the country of which they were old residents—and more especially Mr. Southey, the

Colonial Secretary—were equally responsible, and far more deserving of censure.

On the 27th October, 1870, the Government of the Orange Free State sent a formal protest to Her Majesty's Government against General Hay's appointment of magistrates "to a line west of Ramah to Platberg."

In his despatch, containing the protest, to General Hay, President Brand very accurately refers to the former's hostile and aggressive conduct in these words* :—

"Before receiving the answer from our Government, your Excellency, in your letter of the 19th ultimo, *upon the EX-PARTE statement of the Chief Waterboer*, expressed and published in the *Cape Government Gazette* of the 20th, an opinion adverse to the claim of the Orange Free State, and stigmatized it as an 'unjustifiable encroachment' upon his (Waterboer's) just rights.

"Before Her Majesty's Government has decided upon the Chief Waterboer's application, and the protest of the Orange Free State against it, your Excellency sides with the Chief Waterboer and against the Government of the Orange Free State."

In a despatch, dated "Cape Town, November 12, 1870," General Hay replies to President Brand, and in defending the course he had taken makes the following misstatements :—

EXTRACTS FROM DESPATCH.

* "It appears to me that your Honour has scarcely given due consideration to the circumstances which rendered action on my part necessary, viz. :—

Firstly, That you had
proclaimed the intention of your Go-

REMARKS THEREON.

"*Firstly*." It is untrue that the Free State Government issued a proclamation about the land in question; the only proclamation issued by it concerned the *Campbell lands*. In the protest above referred to, in President Brand's

* *Vide* p. 69, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope," London, August 17th, 1871

vernment to take forcible possession of an extensive tract of country, previously, from time immemorial, in the occupation of native aborigines, who do not appear by any act of theirs to have divested themselves in favour of the Free State of their rights to the same.

“Secondly. That a large number of British subjects were at the time, *with the consent of the said natives*, resident within the limits of that tract of country, and were in danger of being compelled by the Free State Government, tacitly at least, to acknowledge that its right to the territory had been established, and of becoming parties to the forcible subjection of the country to the jurisdiction of that Government; and,

“Thirdly. That Waterboer had appealed to me against your proceedings, and notified his intention of appealing to Her Majesty the Queen. . . .

(a) “15. The line so defined by Adam Kok is that now known as the Vetberg line, *but it is nowhere shown (and Waterboer has always denied) that Waterboer was a party to that definition, or ever expressed his concurrence in it, the only party shown to have been privy to it being Adam Kok, on the one hand,*

words, this “‘tract of country,’ situated to the south of the Vaal River, has been in the undisturbed possession and occupation of burghers of the Orange Free State FOR THE LAST 20 YEARS!” No “native aborigines” exist therein; they were exterminated by General Hay’s friends, the Griquas (see p. 24 to 28, Chapter II.), of whose history, however, he appears to be absolutely ignorant!

“Secondly.” How these aboriginal “natives,” who had been extinct for 50 years, could have given their “consent,” General Hay does not explain. I, with many hundreds of diggers, was “resident within that tract of country;” I did not see one Griqua inhabitant (if General Hay thinks they are aborigines), but I did see the old dwellings of the Free State farmers, and did enjoy the protection of the Free State officials, by whose “consent” we were there!

“Thirdly.” We have already seen, by the Convention of 1854, &c., that General Hay had no right to interfere.

(a) By this tissue of falsehoods does General Hay seek to dispose of the Vetberg line! The Vetberg treaty itself declares Adam and Cornelius Kok, Waterboer and Jan Bloem, as well as the Free State Government, to have been parties thereto. Whilst we have seen that Waterboer and his

and the Orange Free State on the other. How such a demarcation can be held to have bound Waterboer, I am at a loss to conceive."

councillors were actually present during the five or six days the meeting to make the line lasted; that they saw the treaty written, *and never, till the present time, objected!* (See p. 82, Chapter IV, and Chapter VII, throughout.)

In his despatch to Earl Kimberley, dated "Cape Town, November 18, 1870," transmitting the protest of the Free State Government, General Hay makes the following mistatements:—

EXTRACTS FROM DESPATCH.

*"3. With regard to the assertion "that the portion of territory in question has been so long, ('20 years') occupied by burghers of the Orange Free State by virtue of British land certificates, I have reason to believe that the facts are these: (a) *A very few* of such certificates were in fact, I believe, issued provisionally by the British Resident before the abandonment of the Sovereignty. Immediately upon its coming to the notice of the Chief Waterboer (b), WHO CLAIMED AS HIS THE TERRITORY WITHIN WHICH THESE CERTIFICATES WERE ISSUED, he remonstrated to the High Commissioner and to Major Warden in person, who was the British Resident who had issued the certificates. *Major Warden acknowledged that it was by mistake*

REMARKS THEREON.

(a) General Hay seems to have queer ideas; so what he considers "*a very few*" land certificates for farms averaging about 100 square miles each I cannot tell, but I can state that 33 such farms with British land certificates are cut off from the Free State by the line he so unjustly claimed for Waterboer from Ramah *via* David's Graf to Platberg!

(b) That Waterboer then "claimed" as his the territory within which those certificates were issued "*is a most glaring, unmitigated false statement!*" (See pp. 74 to 80, Chapter IV.) The exact words of the late A. Waterboer, written in 1850, were, "*My territory SITUATED BETWEEN THE MODDER AND BLACK (ORANGE) RIVERS has lately been taken possession of by the British Resident.*" *This was ALBANIA, and*

* Vide p. 67, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope,"—London, August 17, 1871.

and in ignorance of Waterboer's boundaries, that he had issued these certificates, and (c) those certificates were never, in fact, confirmed by the High Commissioner. While the question was still pending, the abandonment of the Sovereignty took place, and the Free State took over the dispute as an actually pending matter.

(d) "4. By far the greater portion of the territory *now claimed* by the Free State in the protest now forwarded, as having been in the possession of their burghers, *appears to have been* APPROPRIATED AND DISPOSED OF BY THE Free State Government subsequently to the abandonment of the Sovereignty, and not while the territory of the Free State was under British control.

(e) "5. And, instead of the occupation having been undisputed, *there is no question whatever but that the Griqua Chief Waterboer, WHOSE UNDISPUTED TERRITORY IT CERTAINLY ONCE WAS, and who by no act of his has ever dispossessed himself of it, has unceasingly protested against that occupation.* . . .

had nothing whatever to do with the territory now in question, *which all lies north of the Modder, between that river and the Vaal, whilst, in 1855, by the Vetberg line, two and a half of the British land certificate farms were alone, and for the first time, cut off from the Free State and found to be within Albania!*

(c) As a fact, the British land certificates *never were withdrawn, and to this day, for 20 years have remained in force!*

(d) What General Hay terms "territory *now claimed*," we have seen was owned and claimed by the Free State for periods varying from 12 to 20 years! It is quite false to say the Government "APPROPRIATED" OR "DISPOSED" of those lands. Every foot of the whole 143 farms thereon was bought and paid for, *during the past 40 years*, partly by those who have been since 1854 Free State farmers, partly by their Government.

(e) That this "undisputed territory" was ever, in the history of the world, for even one day, Waterboer's, or in his possession, is grossly and utterly untrue! He could not dispossess himself of that which, as I have repeatedly shown, he never possessed. He never, until Mr. David Arnot's appearance, in 1863—4, "protested against that occupation."

With regard to this last reviewed despatch of General Hay's, I desire most particularly to call attention to the gross ignorance or wilful misrepresentation it displays upon the well-known history of the country and its geography.

1.—The Griquas he terms "native aborigines," whereas they are only emigrants of fifty years' standing.

2.—He confounds the territory now claimed by him for Waterboer, within a line from Ramah *viâ* David's Graf to Platberg, with what the late A. Waterboer claimed from Major Warden in 1850, the land at the confluence of the Vaal and Orange rivers, since known as Albania!

3.—He takes sides in the matter, and passes judgment, when he displays total ignorance of the fact that the territory "*between the Modder and Black (or Orange) rivers*" is Albania, and is not identical with the territory claimed, which is north of the Modder, (whilst the former is south of it,) and is *between the Modder and Vaal rivers* and his line from Ramah *viâ* David's Graf to Platberg.

4.—He also seems to believe, and at all events declares, that the land in question "*certainly once was Waterboer's undisputed territory*;" whereas, as we have seen throughout this work, it was every foot bought from the Bushmen Chiefs, David Dantzer and Mandor, from the Griqua Captains, Adam and Cornelius Kok; never a particle of ground north of the Modder River, or between that and the Vaal River, having been even nominally owned by Waterboer or under his jurisdiction!

And it is upon such false statements that the British Government were deluded—induced to take Waterboer's part, and rob the Free State of its diamond fields!

In another despatch to Earl Kimberley, of the same date as that just reviewed, General Hay makes the further false statement here following :—

EXTRACTS FROM DESPATCH.

* “The Campbell lands . . . hitherto and still in possession of natives, *having a Government of their own* (a), WHICH GOVERNMENT HAS BEEN NO PARTY TO THE ALIENATION OF THE SOIL IN FAVOUR OF THE FREE STATE (b), AND WITHIN WHICH TERRITORY, at the time of the Free State Government issuing its proclamation professing to take forcible possession thereof, and warning all persons to submit to its jurisdiction, THERE WERE SEVERAL THOUSAND BRITISH SUBJECTS devoting themselves, with the consent of the natives, to a search for diamonds, and otherwise occupied in legitimate and peaceable pursuits, who would of necessity have been compelled to have aided the Orange Free State in forcibly ejecting the native inhabitants therefrom, had I not interfered to prevent it.”

REMARKS THEREON.

(a) Is General Hay ignorant of the fact, or does he pervert it, that *Cornelius Kok* governed the Campbell lands till 1857, when he made them over to *Adam Kok*, who sold them to the Free State in 1861 ? (See Chapter VII.)

(b) Here is another *most gross and unpardonable misstatement!* Is General Hay really or wilfully ignorant of the fact that “at the time” he refers to, those “several thousand British subjects” were *not* “within” the Campbell lands; that the diamond fields, at which they then and afterwards resorted, were *not* on the Campbell lands? that the Campbell lands *do not extend east of the Hart’s River; whilst all the diggers and diggings were east of that river*, along the banks of the Vaal (See all our diagrams)? that there did not exist any “native inhabitants” at or near the diamond fields to eject?

So much for General Hay’s attempted justification of his support of Waterboer and appointment of British magistrates.

The Free State only claims the Campbell lands by right of purchase. In order to invalidate this right in the eyes of the British Government, General Hay

* *Vide* p. 74, Blue Book, “Correspondence respecting the affairs of the Cape of Good Hope,”—London, August 17, 1871.

makes the following defamatory accusation against the former President of the Orange Free State, who made the purchase:—

“It appears to me to be not at all unreasonable to conclude, from the evidence of Harvey, that he added ‘the lands of the late Cornelius Kok’ to the sale, in order to relieve himself of the responsibility in which he was involved by his undertaking to obtain £4000 (a), and that the President of the Free State allowed those words to be inserted IN THE DEED, with a knowledge that they were not justified by the power under which Harvey acted . . . calculating upon the ability of his Government to eject the natives whenever it should feel disposed to do so.”

(a) Perhaps General Hay never heard the old legal axiom, “*Omnia præsumuntur rite esse acta*,” and does not know (as President Brand well observed at a future period of the controversy) that, as sound and clear general principles of jurisprudence, *fraud and forgery are never presumed, but must be clearly proved*. Perhaps those who have read Chapters 5, 7, and 9 of this work may have a different opinion to General Hay of the deed of sale and other documentary evidence, not one iota of which has ever yet been refuted or disproved by Waterboer and Co!

From what we have seen of General Hay’s despatches to Earl Kimberley, and the lamentable ignorance displayed as to the history and geography of the country, as well as of the merits of the *imbroglio* fostered by him between Waterboer and the Free State, there is but little doubt that Mr. Southey, the Colonial Secretary, whose ill-will to the Free State is well-known, was the actual manager and concocter of the controversy. This view is confirmed by the following little anecdote, related to me by President Brand himself.

In order to try and arrange the difficulty and explain the rights of the Free State, the Government and Parliament authorized President Brand and Mr.

Charles W. Hutton, member of the legislature, to visit Cape Town and negotiate with the Colonial authorities. At one of the consequent interviews at Cape Town, President Brand referred to the already voluminous correspondence, mentioning the fact that one despatch alone contained *fifty-four paragraphs*, besides annexures.

"Ah," said General Hay, "it must be a bad case that requires so much pleading."

"But it is your own despatch, General," observed the President.

And so, in fact, it was; written, no doubt, by Mr. Southey, and merely signed, it seems likely without perusal, by General Hay.

As a sample of the premises on which the arguments are based in that formidable and verbose, but worthless document, we select two examples for quotation:—

" . . . To begin with the year 1834 at that time the Griquas *were one people, and their acknowledged chief was the late Andries Waterboer, father of the present Chief.*"

The gross inaccuracy of this statement must be clear to those who have read Chapters II. and VII. of this work. *Dam Kok* was then the paramount Griqua Chief, and we have seen that he appointed (about 1816) "Kort" Adam Kok as Chief of Griqua Town, and Cornelius Kok as Chief of Campbell; Waterboer (a former Achterrijder of Adam Kok's) being soon after appointed to a position as magistrate by "Kort" Adam Kok, and eventually appointed by Dam Kok as Chief of Griqua Town *only*. He *never* at any future time exercised authority over the Campbell or Philipopolis Griquas.

The second mistatement deals with events subsequent to 1848 :—

“A. Waterboer and his tribe were in undisputed possession of the land bounded on the south by the Orange River, from Ramah westward to Kheis, *on the east by the line from Ramah to David's Graf, common with them and A. Kok's Griquas ; thence northward to Platberg, and thence by a line fixed by treaty with Mahura, and terminating at Kheis aforesaid.*”

The utter falseness of this boundary claimed by General Hay for Waterboer for the first time in the history of the country has already been so frequently exposed in these pages as to require no further comment. Anyone who has travelled, as I have done, over many of the 143 Free State farms it cuts off, who has seen the ancient appearance of the farm-houses (some of them built thirty years and more), and has conversed with the inhabitants on the subject, would experience as much difficulty as I do in moderating the expressions with which to characterize General Hay's false testimony.

In a despatch, dated “Cape Town, November 19, 1870,” General Hay transmits, and recommends to Earl Kimberley's “favourable consideration,” the long-promised and expected “petition” of Waterboer to Her Majesty, praying to become, with his people, British subjects; and praying most particularly, and above all, that “Griqualand West,” *with the diamond fields*, may be proclaimed British territory.

The “petition” is to be found at page 88, Blue Book, “Correspondence respecting the affairs of the Cape of Good Hope,” London, August 17th, 1871; but such an ungrammatical tissue of mendacity I have decided not to encumber these pages

with, more especially as whatever evidence is therein adduced in support of Waterboer's claim, has already been criticized at length and fully disposed of in Chapters VI., VIII., and IX. The whole thing has evidently been concocted by Mr. David Arnot, and others, for Waterboer. From the earliest period of Griqua history, every event has been perverted and misrepresented in the most shameless, transparent manner, in order to suit the compiler's own fraudulent ends, and make out a claim for Waterboer to the diamond fields.

In recommending this precious mass of false evidence and fabrication, General Hay reiterates his fallacies and mistatements,* viz. :—

That "many thousands of British subjects have emigrated thither . . . *within Griqualand* . . . and the Griqua Government feels itself incompetent to exercise over them . . . that authority . . . imperatively demanded," &c.

We have already seen that *none* of the "many thousands" were in Griqualand; that the Griqua Government had nothing at all to do with them; that they were all in the Orange Free State; and that on the 6th of September, 1870, President Brand had appointed Mr. O. J. Truter as Special Commissioner at the diamond fields.

He again misinforms Earl Kimberley that the "Free State" had, "since the discovery" of diamonds

"Assumed an attitude towards the Griqua people and other *aboriginal* (?) *inhabitants*, which plainly indicates an intention of seizing upon and appropriating . . . nearly the whole of the Griqua and

* *Vide* p. 86, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope,"—London, 17th August, 1871.

adjacent other native territory, and of ejecting therefrom the native population *by whom it is now, and for a long series of years has been occupied*" !!!

General Hay is referring to the diamond fields—to South Adamantia as claimed by Waterboer and Co. I need only repeat that not one native inhabitant (Griqua) was to be found therein when I was there, and during two years I took very particular trouble to observe and ascertain that fact.

In estimating the claims Waterboer has to British consideration, General Hay states:—

"The first of these important services was rendered in the year 1823, when a vast horde of Mantatees, estimated at 40,000 *in number*, was completely broken up by Waterboer's spirited attack upon them." . . .

I do not quote this monstrously exaggerated piece of nonsense for the purpose of argument, but merely to show the Africanders the nature and quality of the reasons adduced by the robbers of the diamond fields, and by which the British Government has been utterly deceived.

In concluding this brief notice of General Hay's despatch—which may be classified as the "40,000 man-eater" one—and his connection with the robbery of the Free State diamond fields, I beg to quote, for the purpose of showing his gross ignorance of the things he professed to write about, and as most conclusively proving the fact, that he never can have seen a real living Griqua either at home or abroad, and must have been shamefully imposed upon, the following extract:—

"... The Griquas . . . are in a peculiar" (very peculiar) "condition of civilization, essentially different from that of the

majority of native tribes here. They are all Christians . . . their laws are not native, but European laws. In fact, *they are but little removed in civilization and advancement from the condition of such of our own people as inhabit adjacent parts of the Colony . . .* Such tribes as these seem to me to be the natural means by whose agency Africa may eventually in great part be civilized."

I do not think that "such of our own people as inhabit adjacent parts of the Colony" will feel flattered, or will beg General Hay to become their historian.

The gallant General evidently had an idea that Earl Kimberley studied policy in Exeter Hall.

How does he reconcile his declaration, dated 19th November, 1870, that the Griquas "are but little removed in civilization and advancement from such of our own people," &c, with his argument urged to strain a point against President Brand in a despatch, dated October 15th, only thirty-five days before, about "*untutored people*, such as Waterboer and members of his council"?

Here follows *in extenso* the act of the Cape Government, upon the authority of which the acting Governor, General Hay, proceeded to appoint magistrates to the diamond fields:—

EXTRACT FROM THE MINUTES OF THE EXECUTIVE COUNCIL, DATED
SEPTEMBER 14, 1870.

"1. The Council having taken into special consideration the circumstances of a certain tract of country on the immediate borders of the Colony, north of the Orange River, in which, owing to the recent discovery of diamonds in large numbers, a vast concourse of people has come together, for the most part, or at least in a very large proportion, subjects of Her Majesty, and considering that (1) *the tract in question has till lately been desert and unoccupied*, or very sparsely occupied, only at times for nomadic purposes, and that

there has (2) *within the same been no exercise of any recognized civilized jurisdiction*, and (3) *that there is none even now*; and further, considering that the title to sovereignty within the same is claimed by different parties (4) *none of whom has in fact exercised jurisdiction*, and (5) *that there is no reasonable probability of any of the said claimant's being within any reasonable time able, if willing, to exercise practically any jurisdiction therein*; and further, considering that (6) *the claimant who for the present appears to have shown the best title to the sovereignty over the tract of country in question is the Griqua Captain, Nicolaas Waterboer*, and that he has by a public notice published by him on the 25th August, 1870, declared his inability to exercise any effective jurisdiction therein, and has requested that Her Majesty's Government should take steps for the prevention of crime, and the preservation of peace and order among her own subjects in the same tract of country: is of opinion that it is expedient that the powers conferred on His Excellency the Lieutenant-Governor as administering the Government of this Colony, by the Imperial Statute 26 and 27 Vict. cap. 35, should be exercised by addressing to two or more persons, subjects of Her Majesty within the said tract of country, commissions under the said Act to exercise the powers and perform the duties of magistrates, for the purposes of the said Act within the tract of country bounded by the limits hereinafter mentioned, that is to say,

"From Ramah on the Orange River, in a straight line to David's Graf, near the juncture of the Riet and Modder rivers; thence in a straight line to Platberg near the Vaal River; thence to the Vaal River; thence up the said river to its junction with the Vet River; thence from the said river in a straight line to the mission station above Bootschap near the Hart River; thence in a straight line to Bootschap; thence in a straight line to Kramer's Fontein; thence in a straight line to Griqua Town, and from thence in a straight line to the junction of the Vaal and Orange rivers, and thence along the Orange River up to Ramah aforesaid.

"And the Council advises that such Commissions should be issued accordingly as soon as it shall be ascertained who will be fit and proper persons to whom the same may be addressed.

"True Extract,

"HAMPDEN WILLIS."

The boundary here proclaimed cuts off from the

Free State all South Adamantia, all the diamond fields, and 143 * farms, and is exactly that to which Waterboer's fraudulent claim applies.

The above act is based entirely upon a conclusion derived from the six specific premises, which I have numbered, and changed into italics.

We have seen that Mr. O. J. Truter was already exercising jurisdiction as the Free State Special Commissioner at the diamond fields; and, if the previous pages of this work have accomplished but a tittle of their object, if I have succeeded in proving anything, it is, that every one of those six premises are utterly and *in toto* false and incorrect. Thus then, morally, the act itself becomes worthless, fallacious, and inoperative. As for those who framed it, well may we thus translate a classic proverb: "In the strongest light they exhibit the firmness which disdains to correct an error, and the cunning which rejoices to smuggle an enactment into law."

* It appears, from a despatch of President Brand's, dated February 7th, 1872, that by that time it had been ascertained that in all 143 farms, including 33 with British title-deeds, were cut off from the Free State by the boundaries claimed ostensibly for Waterboer.

CHAPTER XIII.

PROGRESS OF THE COLONIAL GOVERNMENT'S SCHEME TO ANNEX THE DIAMOND FIELDS BELONGING TO THE ORANGE FREE STATE; AND ANALYSIS OF THE FALSE EVIDENCE ON WHICH THAT GOVERNMENT ACTED.

ANIMUS FURANDI OF THE CAPE GOVERNMENT'S POLICY: EXEMPTION THEREFROM OF BOTH THE COLONISTS AND THEIR PARLIAMENT.—ADVENT OF GOVERNOR AND HIGH COMMISSIONER SIR HENRY BARKLY.—HE FORTHWITH ADOPTS THE VIEWS OF HIS PREDECESSOR AND THE EXECUTIVE COUNCIL HOSTILE TO THE FREE STATE.—HIS TRIUNE DESPATCH, AND ITS GROSS MISTATEMENTS.—PRESIDENT BRAND'S REPLIES: HE CHARGES THE COLONIAL GOVERNMENT WITH VIOLATING THE CONVENTION OR TREATY OF 1854.—SIR H. BARKLY ENDORSES WATERBOER'S MERE ASSERTION OF FORGERY AGAINST THE FREE STATE GOVERNMENT, WHICH PRESIDENT BRAND REFUTES.—UNJUST ARBITRATION PROPOSED BY SIR H. BARKLY.—PRESIDENT BRAND'S FAIR AND LEGAL COUNTER PROPOSAL.—SIR H. BARKLY'S MISREPRESENTATIONS TO EARL KIMBERLEY.—THE BRITISH GOVERNMENT DECEIVED, CONSENTS TO ANNEX THE DIAMOND FIELDS, UPON CERTAIN CONDITIONS.—COMMISSION, EMBRACING THOSE CONDITIONS, SENT TO SIR H. BARKLY.

The particular effort I am making to expose the utter falseness and hypocrisy of the reasons and arguments advanced by the Cape Government during its hostile controversy with the Free State, is for the main purpose of proving the felonious nature of the policy by which the Colonial Executive Council eventually annexed the diamond fields—that being the one

object for which, from the first, those rulers of the Cape undeviatingly struggled. No one acquainted with the true merits of the case could peruse the official correspondence which has emanated from the Cape Town Government House without keenly appreciating the famous Frenchman's famous epigram, "Lie, lie, persistently lie, and something will come of it" !

The Colonists, and the Colonial Parliament, I gladly and especially exempt from all connection with, participation in, or responsibility for the acts perpetrated by their "irresponsible" Government ; the Parliament having repudiated those acts, and the public having readily accepted that repudiation, though unable to guide or restrain that criminal policy of the clique composing the Executive Council—an irresistible argument in favour of the change of constitution, the lately established "responsible" Government !

On the 31st December, 1870, Sir Henry Barkly arrived at Cape Town to assume the post of Governor and High Commissioner, and with special instructions to try and arrange the diamond fields' *imbroglio*. He at once, with the new year, entered upon his duties : possibly proving a great blessing to the Cape Colony, but certainly turning out to be a most undesirable new year's gift so far as the Orange Free State was concerned.

A few days before his arrival President Brand and Mr. Hutton had reached Cape Town, as mentioned in our last chapter, for the purpose of pleading their country's cause against Waterboer and Co's scheme.

Influenced, no doubt, by the unfriendly disposition

to the Orange Free State and South African Republic displayed by the Home Government, and by the previous action taken by his predecessor, General Hay; and being also entirely advised and instructed by Mr. Southey and the remaining members of the Executive Council; the fact that Sir Henry Barkly at once adopted the existing policy in all its unquestioning approval of Waterboer, and all its undeviating bias, injustice, and hostility against the Free State, can excite but small surprise. Indeed, as a just historian of these events, I must observe that it would have been extremely difficult, if not impossible, for him to have done otherwise. He could hardly, as a total stranger to the country and the past proceedings, commence office in entire opposition to all his colleagues: moreover, even had he been just-minded, independent, and willing enough to do so, with an "irresponsible" Government, it was out of the question.

Naturally enough, under these circumstances the visit of President Brand had no effect upon the long predetermined policy in question. In continuation of my effort to expose the false views and incorrect arguments of the late Colonial Government, I must now notice the correspondence which ensued between the President and Sir H. Barkly.

Although from one sentence written by the Governor to Earl Kimberley in a despatch dated, "Bloemfontein, March 8, 1871,"*—"For it appeared to me that the British Government *had already gone too far to admit of its ceasing to support the cause of Waterboer*,"—we might well dismiss all discussion of Sir

* *Vide* p. 133, Blue Book "Correspondence respecting the affairs of the Cape of Good Hope,"—London, August 17, 1871."

H. Barkly's policy as being that of an undoubtedly biassed and unduly influenced partizan, yet that would not illustrate upon what false and incorrect premises his arguments were founded; so those I proceed to extract from his despatches.

President Brand had produced (in addition to the very ample evidence already reviewed in Chapter VI., VII., VIII., IX., X., as "Minutes of the Meeting at Nooitgedacht") not only a certified extract from the books of the Register of Deeds at Bloemfontein, quoting the title deeds to *one hundred* of the Free State farms cut off by the line claimed for Waterboer from Ramah *viâ* David's Graf to Platberg, *eighteen of which certificates had been issued by Major Warden, the British Resident, during the existence of the Sovereignty nineteen years ago*, but many other original letters and documents, to any reasonable mind, most conclusively proving that the disputed territory of South Adamantia had for many years been part of the Free State, and *never* land of Waterboer's. Sir H. Barkly, in a set of three despatches in reply thereto, dated "Government House, 23rd January, 1871," made (or rather shall we say, Mr. Southey made for him) the following misstatements:—

In the second of the triad, disputing President Brand's proof that, upon the death of Andries Waterboer, the British Government had ceased to be in alliance with the Griquas under that Chief's son and successor, the present Waterboer; and that by Article 2 of the Convention of 1854 (See Chapter III.) any future treaty with that Chief was estopped; Sir H. Barkly declared:

“*Sir George Grey having,* notwithstanding Sir George Cathcart's unwillingness to do so, renewed and confirmed with the Chief Nicolas Waterboer, the self-same arrangement which had been entered into with his father, Andries, by Sir Benjamin D'Urban.*”

This statement is exactly contrary to fact. Adverting to it in a despatch dated “Cape Town, January 25, 1871,” President Brand and Mr. Hutton observe† :—

“We would feel obliged if your Excellency would favour us with a copy of the treaty ‘renewed between Sir George Grey and the Chief Nicolas Waterboer,’ mentioned in your letter of the 23rd instant, Section 4.”

Certes, Sir H. Barkly here was guilty of a serious *faux pas*. Replying to the above request, he had to shuffle out of and deny his first statement, by a despatch dated the next day, admitting‡ :—

“I am unable to accede to your Honour's request to be furnished with a copy of the treaty ‘renewed, between Sir George Grey and the Chief Nicolas Waterboer,’ *no formal document having been considered necessary*”!

As treaties are “*formal documents*,” that of 1834, between Sir B. D'Urban and A. Waterboer (as we have seen at page 81, Chapter IV.) was *not* “renewed and confirmed”!

In trying to escape from the distinct provisions of Article 2, of the Convention of 1854, the Governor states § :—

“To suppose that . . . the substitution of British for native

* *Vide* p. 127, Blue Book, “Correspondence respecting the affairs of the Cape of Good Hope”—London, August 17, 1871.

† *Vide* p. 130, *Ibid.*

‡ *Ibid.*

§ *Vide* p. 128, *Ibid.*

rule is likely to prove 'injurious or prejudicial' to the Orange Free State is an hypothesis which need not be seriously discussed."

But the second party to the Treaty or Convention of 1854 thought otherwise, and did not appreciate the *rationale* of being thus cavalierly treated by the first party. It is true, if Sir H. Barkly's position was to be maintained, the "hypothesis" had better not be seriously discussed. But setting aside for a moment the irresistible fact that the territory in which this British rule was to be substituted was *de facto* under Free State, not native, rule, let us observe President Brand's logical refutation of the Governor's "hypothesis."

In a despatch dated "Bloemfontein, March 4th, 1871," the President replying *seriatim* to the Governor's triune communication of the 23rd of January last, states* :

"Article 2 of the Convention states that '*Her Majesty's Government has no wish or intention to enter hereafter into any treaties which may be injurious or prejudicial to the interests of the Orange Free State.*' And our Government maintains that entering into a treaty with a native Chief, or entertaining his application to be received with his people as British subjects, at a time when he disputes the rights of the Orange Free State, must necessarily 'be injurious and prejudicial' to its interests, as it thereby becomes involved in differences with the British Government."

(Finds the difference with the "Native Chief" transferred to the British Government, and thereby becomes plundered of its territory, the President might have added) . . .

"Supposing the Free State *had no dispute* with a native chief, and

* *Vide* p. 158, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope."—London, August 17, 1871.

Her Majesty's Government, acceding to his request, received him as a British subject, it might not 'be injurious or prejudicial to the interests of the Free State.'"

This reply; the distinct terms of the Conventions of 1852 and 1854, "*disclaiming all alliances whatever and with whomsoever of the coloured nations to the north of the Vaal River*"; the policy carried out by Sir Harry Smith, Sir George Cathcart, and Sir George Grey; and the specific instructions given by the Home Government, by the Duke of Newcastle, the Right Hon. H. Labouchere, &c.; utterly falsifies Sir H. Barkly's logic. We need not discuss the point any further; certainly there is scarcely a man in South Africa who will deny the publicly accepted fact that the support of Waterboer by the British Government, and the subsequent annexure of the so-called "Griqualand West," was very particularly "injurious and prejudicial," to the Free State, and was done solely to steal or "jump" its diamond fields.

In the third of his three despatches of the 23rd of January, Sir H. Barkly makes the following mis-statements and fallacious arguments:—

EXTRACTS FROM DESPATCH :

(a) "3. I gather from the correspondence between my predecessor and your Honour that General Hay *was unable to understand by what process the Orange Free State Government became possessed of sovereign rights over the territory in question*; for even if it be assumed, for the

REMARKS THEREON :

(a) It is a very old and true saying that, "You can tell a man a thing, but you cannot find him brains to understand it." If General Hay and Sir H. Barkly were "unable to understand" the "process" in question, the admission simply means that they were unable to fulfil the

* *Vide* p. 128, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope."—London, 17th August, 1871.

sake of argument, that Cornelius Kok was an independent Chief, and that Waterboer was a consenting party to the Vetberg line being defined by Adam Kok, all that that proceeding appeared to have accomplished *was (b) to leave the lands north of that line and between the Vaal River and the line claimed by Waterboer from Ramah to Platberg, within the limits of C. Kok's independent jurisdiction; and there do not seem to have been any further or subsequent proceedings by which the Free State acquired the rights of sovereignty within those lines.*

"4. I confess that I am labouring under the same difficulty as my predecessor experienced . . .

(c) "... It is asserted in substance that the territory claimed by Waterboer within what is denominated the Vetberg line, has belonged to the Orange Free State, and been in the undisturbed occupation of its subjects during the last twenty years. It now appears, however, that the Deeds Registry of your Government shows that, up

duties of their high office. Everyone in South Africa, except those two Governors, knows that when a civilized Government or white population buys ground from a native Chief, the sovereign or territorial right goes with the sale; in this case, moreover, it was specially understood. Cornelius and Adam Kok always so sold their land; *they never* disputed the transfer of sovereign rights; and when Adam Kok left for Nomansland, he sold off to the Free State all of their lands that had not previously been bought. He has never since claimed any sovereign rights; and does Sir H. Barkly mean to say that they are still vested in him?

(b) At the time the Vetberg line was made, the Free State did not possess *all* the land up to it; only such farms as had then been sold by Adam and Cornelius Kok.

(c) President Brand thus replies*: "On the 3rd February, 1848, Her Majesty's sovereignty was proclaimed over the territory between the 'Orange River, the Vaal River, and the Drakensberg.' ... *That territory was by Article 1 of the Convention of February 23rd, 1854, transferred to those delegated by the inhabitants to receive it . . .* The Government of the Orange

* *Vide* p. 157, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope."—London, August 17th, 1871.

to the time of his death in the year 1858, Cornelius Kok exercised the right of disposal of lands within that line, both by sale and by grant, and that such sales or grants were in most cases made in favour of Griquas, 'subjects' of his own, and also that those Griquas afterwards sold indiscriminately to British subjects or subjects of other foreign powers, as well as to persons belonging to the Orange Free State, and it was after these sales had been effected that the lands were first enregistered in the Deeds Register of your Honour's Government . . .

(d) "6. I am at a loss to understand on what principle, even supposing these sales had all been made to subjects of your Government, *the transfer of property in land situate within one State to the subject of another can transfer the sovereignty over the land from the Government of the vendor to that of the purchaser**; or on what principle, while the Sovereignty remained, according to your Honour's theory, in Cornelius Kok and his successors, *the Free State Government permitted these lands to be enregistered in its Land Register*; (e) and this enregisterment, seems even more

Free State maintains that *by the Convention the territorial limits of the State were bounded by the 'Orange River, the Vaal River and the Drakensberg*;' but, to avoid disputes, it was willing to accept the line made by Captain Adam Kok, on the 5th October, 1855, between Captain Waterboer and Cornelius Kok.

Captain Cornelius Kok voluntarily submitted to and authorized and empowered the enregisterment in the Land Register of the State of several farms sold by him and his subjects to different parties.

(e.) By the law of the State *no naturalization is necessary* to enable persons not being burghers to hold landed property; and the fact of parties appearing before the Registrar of Deeds to obtain transfers and enregisterments in our Deeds Registry Office shows *that they recognized and acknowledged that the ground was situated within the territorial limits of the Orange Free State, and subject to the jurisdiction of its courts as the LOCUS REI SITAE.*"

(d.) Sir H. Barkly, as we have conclusively shown, discovered this mare's nest simply because he was "at a loss to understand" the ancient and unchangeable custom which has always prevailed throughout the country. He should have studied its his-

* Sir H. Barkly of course ignores the fact that "the Government of the vendor" did, according to its custom, transfer the "sovereignty" to the *de facto* Government "of the purchaser"—that of the Free State.

unaccountable when we find that many of the persons to whom the Griquas sold were subjects either of Great Britain or of other States foreign to the Orange Free State.

(f) "8. I apprehend that these entries . . . go to show that up to 1857 that Government *had not, and did not exercise sovereign power within the limits of the Vetberg line, and that the lands in question were then admitted to be within Griqua territory, with respect to which Griqua subjects, with the full knowledge and consent of the Free State Government, exercised the right of disposal both by sale and grant.*

(g) "I observe that out of the fifty-six farms (100 altogether) enumerated, *twenty-seven* are alleged to have been sold or granted by Captain Cornelius Kok, between the years 1855 and 1859, *the later date being, according to the evidence of W. O. Corner, at the meeting at Nooitgedacht, a year after his death; indeed, there is one, No. 39, entered as having been granted by C. Kok in 1865, which may be a clerical error perhaps, when he had, according to the before-mentioned evidence, been dead for seven years.*

(h) "9. Your Honour is already aware, I believe, that the Chief

tory before he so foolishly and positively published his opinions.

(f) In this misrepresentation Sir H. Barkly's wish must have been father to the thought, for no impartial person, possessing any information on the subject, could be ignorant of the fact that the line of frontier farms bought by Free State subjects (a boundary continually advancing by fresh purchases) formed the line of demarcation between that State and Cornelius Kok, two farms, Driekoppaan (No. 234), and Waterbak (No. 235), *on the Vetberg line, having been bought on the 16th March, 1849.*

(g) To this charge, in his despatch above quoted, President Brand replies:

"I have the honour to observe *that, according to the list, ONLY ONE FARM, viz., 'Mozip, No. 127, is stated to have been sold by Capt. C. Kok in 1859, . . . This is a clerical error. . . . This farm was sold on the 9th November, 1859, by W. O. Corner, under power of attorney of C. Kok, 8th July, 1856, subsequently ratified by Captain Adam Kok on the 14th June, 1859.'*

"The date of farm No. 39, Doornlaagte, is erroneously copied by the clerk as granted by C. Kok in 1865; it ought to have been 29th October, 1855."

(h) President Brand's reply completely annihilates the *ex parte*

Waterboer not only denies that Cornelius Kok had any right to dispose of these lands" (*Ne sus Minervam! In correcting President Brand, why does Sir H. Barkly not first ascertain that for THIRTY YEARS Waterboer had never disputed those sales?*), "but that he also asserts that many of the transactions, by virtue of which the lands have been enregistered in the Deeds Registry Office of the Orange Free State, have been *fictional*, and the documents purporting to be deeds of grant and of sale, by Cornelius Kok, forgeries . . . In corroboration of that assertion, Waterboer has caused to be transmitted to this Government certain papers connected with the farm named Vaalboschpan, No. 55 on the list now under observation, viz. :

"1. Deed of sale by Capt. C. Kok to Willem Smit, dated 10th January, 1855, upon which is written a certificate by the Registrar of Deeds at Bloemfontein, that the property was transferred at Fauresmith on the 26th July, 1860, and at Bloemfontein, provisionally, on the 18th August, 1860."

(Then follow the dates of five successive sales and transfers).

"Waterboer has drawn attention to the following circumstances :

"2nd. That the document, purporting to be a deed of sale by

statements and hypothetical arguments of the opposite charge :

"The assertions of Waterboer are disproved by several independent witnesses and facts. '*Omnia præsumuntur rite esse acta,*' and that fraud and forgery are never presumed, but must be clearly proved, are sound and clear general principles of jurisprudence. The transaction of sale of 10th January, 1855, which Waterboer attempts to impugn, can easily be explained. Corner (who was the son-in-law and the clerk of Cornelius Kok) and Smit declare that the sale took place on the 10th January, 1855, and it is quite consistent with fact that Cornelius Kok might after 1856 have given a written certificate that he had sold a farm, Vaalboschpan, on the 10th of January, 1855, and instead of dating the certificate upon the day it was given, did what Captain Adam Kok in more than one instance also did, in perfect good faith, dated it the day upon which the transaction was concluded."

(In support of President Brand's statement, I beg to declare that before I left the Free State, I took particular pains to investigate this matter. Early in June, 1872, at Du Toit's Pan, in the presence of Mr. J. Gerald Donovan, late Government Inspector at Pniel, Mr. W. J.

Captain C. Kok, is in the handwriting of W. O. Corner, who is the only witness to the X or marks said to be those of C. Kok thereon,—and that by the watermark upon the paper on which this document is written, it can be seen that it (the paper) was manufactured in 1856, or a year after the date of the deed of sale written upon it.'

"3rd. That the first registration in the books of the Orange Free State, on the 26th July, 1860, was permitted to be made by Mr. J. A. Hohne, in his capacity as agent of the said W. O. Corner, he (Corner) representing that his authority was a power of attorney granted to him by C. Kok on the 8th July, 1856, although it was then (in July, 1860) well known that Cornelius Kok had been dead several years, *and consequently that any power of attorney granted by him in his lifetime had thereby become void.*"

"11. These facts (?) certainly must appear to any impartial person to give much weight (i) to Waterboer's assertion as to the fictitious nature of some at least of the transactions by means of which registration of the lands in question has been obtained or procured in the books of the Orange Free State."

(Surely Sir H. Barkly does not refer to himself as an "impartial person," when he subse-

Crossley, formerly Captain Adam Kok's Government Secretary, informed me that *it had been the common practice by the Governments of both Koks to antedate renewed "requests" or title-deeds, in place of lost originals, to the date of the original grant, and that he, by Captain Adam Kok's directions, had frequently done so.*)

"With the documents filed in the office of the Registrar of Deeds, in connection with the farm 'Vaalboschpan,' is a certified copy of a power of attorney by Captain C. Kok, executed at Campbell on the 8th July, 1856, appointing W. O. Corner his agent and attorney on the back of which is written :

'I, the undersigned, Adam Kok, lawful successor and executor of the late C. Kok, Chief of Campbell, hereby declare to nominate and appoint, by virtue of the aforewritten power of attorney of the late Cornelius Kok, Mr. William Ogilvie Corner, of Philippolis.

ADAM KOK, Captain.

As witnesses :

W. C. CROSSLEY.

JAMES CORNER.

Philippolis, 14 June, 1859.'"

(See *Annexure No. 23*, Chapter 10.)

(i) "But even supposing that it could be clearly established in a court of law that the transfer of the farm 'Vaalboschpan' was

quently persisted in the views announced in this despatch, despite the proof by President Brand that no matter how "fictitious" the "transactions" respecting "the lands in question" might have been, "that could never give Waterboer any right;" that really his charge of "fictitious sales" was false; and that for many years the land had been *de jure* and *de facto* Free State land? Moreover, considering he personally well knew that the New Zealand colonists who bought native land are not under Maori sovereignty, it does not prove impartiality by pretending not to understand parallel cases in the Free State.)

made without sufficient authority, that might have been a ground for the late Captain Cornelius Kok, or the Orange Free State Government — as having by virtue of the sale of the 26th December, 1861, become owners of all the open ground which belonged to Cornelius Kok—to sue for the cancellation of the transfer, if it could be shown that they had exercised due diligence, and had not been the cause by their silence and laches of injuring innocent purchasers; *but that could never give Waterboer any right to that farm.*"

I cannot close this review of Sir H. Barkly's *ex parte* and *ex hypothesi* maintenance of Waterboer's fraudulent claims, without giving two or three more quotations from President Brand's logical and irresistibly powerful reply:

"The Orange Free State Government has exercised jurisdiction over, and its people have been in undisturbed possession and occupation of, the 140 farms situated in the tract of country which Waterboer now claims to the south of the Vaal River since 1854. In order to obtain possession, Waterboer must have attacked the people and driven them off their farms. Supposing he had attempted to do so, would the British Government have give him any support"?

Referring to Waterboer's petition for British aid and annexation, President Brand adds:

"But when such request is made and acceded to at a time when a native Chief sets up a claim to land which we maintain unquestionably is within the territory of the Orange Free State, and which has

been for a series of years in the occupation of our people, and some under British titles (*a*), then our Government certainly views it as 'injurious and prejudicial,' and contrary to Article 2 of the Convention."

Certes, if Sir H. Barkly's lucubrations require the explanation of Josh. Billings—"This is logic,"—the same cannot be said of his correspondent's!

The British Government, or rather Earl Kimberley, deceived by General Hay's misstatements of the case, instructed Sir H. Barkly on his departure to assume the gubernatorial office, that, "It would be most desirable that the proposals made by Sir Philip Wodehouse for a settlement of the disputed claims by arbitration, should be renewed and urgently pressed." Sir H. Barkly thereupon, in the trio of despatches under review, urged upon the Free State "a reference of the *whole* matter to arbitration"; meaning, of course, South Adamantia as well as the Campbell lands! In his reply to President Brand's request to be furnished with a copy of the renewed treaty Sir H. Barkly alleged (but afterwards denied) to have been made with Waterboer, the Governor, after stating that he did possess "the document purporting to be a deed of sale referred to as written on paper manufactured a year after the alleged date of the transaction," goes on to say, "*I am not certain that any other of Waterboer's proofs are in possession of this Government*"! Yet, in spite of this distinct admission that all Waterboer's case besides that refuted document consisted of the petty claimant's *ipse dixit*, Sir H. Barkly actually presumed to propose to the Free State Government a submission of its rights to its 143 farms to arbitration!—to propose upon only this exploded piece of evidence, that the Free State should submit to arbitration its un-

doubted territory, embracing 143 long inhabited, built on, and improved farms, and (a) on thirty-three of which the British Sovereignty Government, previous to the Convention of 1854, *had year after year levied quit-rents* without their discovering, or even so much as hearing of, Waterboer's pretended right to the land! At the instance, too, of that insignificant semi-savage, who never owned a foot of the land, *and has never even directly asserted that he did*; although, in order to create a plausible pretext for seizing the diamond fields for themselves, the members of the Cape Government have chosen to interpret his indirect claim, through Cornelius Kok as his subordinate, as a direct and positive proof of ownership!

In concluding his reply to Sir H. Barkly's trio of despatches of the 23rd of January, 1871, President Brand makes the following just and reasonable offer:—

“But, as her Majesty's Government has, by steps taken upon Waterboer's request, *virtually become a party to the controversy*, and as it is of the utmost importance that we should have a clear understanding as to the true intent and meaning of *Article 2* of the Convention, I would be ready to recommend to the Volksraad—who alone has the power to decide such a question—to refer the following questions to the decision of any independent power (for instance, the President of the United States of America, or to the King of Holland):—

“1st. Whether, under the present circumstances, her Majesty's Government can, consistently with the true intent and meaning and the spirit of *Article 2* of the Convention, accede to the request of Captain Waterboer? and

“2ndly. To decide as arbitrator, on the validity of the title of the Orange Free State Government to the Campbell lands; that is, the lands on the north of the Vaal River”?

After what we have seen of the one-sided, unfair, pre-determined policy of the British and Colonial Govern-

ments in this matter, need it be added that this very rational and just proposition was refused? All discussion of the Second Article of the Convention was resolutely declined. The British party to the Convention must alone interpret, decide, and act upon solemn agreements and stipulations entered into with the Free State second party! Why? Because the second party could not fight, and because—as we have so fully seen by the interpretations put upon that *2nd Article* by the Duke of Newcastle, Governors Sir Harry Smith, Sir George Clerk, Sir George Cathcart, Sir George Grey, and Sir Philip Wodehouse, and especially by the Right Hon. H. Labouchere, that question must most assuredly have been decided in favour of the Free State!

In a despatch dated “Downing Street, June 3, 1871,” Earl Kimberley, in reply to Sir H. Barkly’s communication of President Brand’s offer, states:—

“Her Majesty’s Government* have no wish or intention to violate any right which belongs to the Orange Free State—”

(At this time, be it remembered, by the appointment of British magistrates within Free State territory, and by the acceptance of Waterboer’s petition to be received, *with the lands he chose to claim*, under British rule, the rights of the Free State were most flagrantly violated)

“but they cannot admit the pretensions founded by Mr. Brand on the *2nd Art.* of the Convention of 1854, *nor can they consent to refer to arbitration the point raised by him as to its construction*”!

* *Vide* p. 183, Blue Book, “Correspondence respecting the affairs of the Cape of Good Hope.”—London, August 17, 1871.

What, then was the purpose, or the use of a Treaty or Convention, if only the strongest of the two powers between whom it is made is to decide upon and interpret its clauses?

This gross violation of international law, treaty law, and the rights of the Free State would be paralleled by an analogous case: If the Korana Chief, Massu Rijt Taaibosch, had claimed Cape Town, and the Free State (*being strong enough*) had supported his claim, had agreed to accept him as a subject, and the land he *claimed* as Free State land, and then appointing Free State magistrates to rule over the Cape Town *de jure* and *de facto* territory, had proposed that Great Britain and the Korana Chief should submit the question to arbitration!

It is now necessary to expose the prejudiced and false reports made by Sir H. Barkly to Earl Kimberley, both of the correspondence and events just noticed, of his visit to the diamond fields in February, 1871, and of the ensuing occurrences, by which the British Government was induced to consent to a conditional annexation of "the whole of Waterboer's territory," including, of course, "the diamond fields."

Those who have perused the review of Sir H. Barkly's trio of despatches of the 23rd of January, and President Brand's reply, cannot fail to agree as to the utterly false nature of the former's report thereon, in a despatch to Earl Kimberley, dated "Cape Town, February 1, 1871":

"A perusal* of that part of the correspondence . . . will, I doubt not, convince your Lordship that the documents exhibited on behalf of the Free State—"

* *Vide* p. 107, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope."—London, August 17th, 1871.

(He forgets, of course, to state that *none but the alleged title-deed on paper of a year's later manufacture than the date, had been produced by Waterboer!*)

—"altogether failed to prove the length of possession or undisputed enjoyment of sovereign rights, previously asserted, over the territory lying within the so-called Vetberg line. No just ground is established by them, therefore, for the refusal of that Government to refer the dispute with Waterboer, as to the lands on the left bank of the Vaal, for Sir Philip Wodehouse's arbitration, as agreed on in the case of the Campbell grounds . . .

"4. On the contrary, the abstracts produced . . . tended to confirm, in some instances, Waterboer's allegations that many of the transactions, on the strength of which registration was granted, were fictitious, and the documents, purporting to be deeds of grant or sale by Cornelius Kok, forgeries.

"5. I would especially draw your Lordship's attention to one case pointed out in my letter to President Brand, in which this *is proved beyond a shadow of doubt*, by the fact of a deed purporting to be an original concession—"

(Waterboer has yet to prove that the paper produced was the "original concession," or even an ante-dated renewal! The forgery, if forgery there was, might have been by Waterboer or Mr. David Arnot)

—"bearing date a year earlier than the watermark of the paper on which it is written, and yet so lax was the practice of the Free State officials, that they not only overlooked this, but actually registered the title thus originated under a power of attorney said to have been granted by Cornelius Kok, that individual, as they must have known, having been dead two years before the time of registration."

(Of course, Sir H. Barkly not only carefully avoids all mention of President Brand's explanation, *but also conceals the fact that the said power of attorney had been renewed by the Chief, Adam Kok, Cornelius Kok's lawful successor!*)

"6. Under circumstances of such grave suspicion, I felt that I

could not . . . admit *any* of the conclusions which the deputation came prepared to press upon me."

(*O si sic omnia !* Had Sir H. Barkly only as promptly and perspicuously picked out *one* false statement in Waterboer's trumped-up case, and thus severely, upon the maxim that falsehood once detected permeates the whole of a witness's evidence, refused to "admit *any* of" *his* "conclusions," what reputation for consistency, for impartiality, for critical power, for judicial qualities, might he not have gained !)

From this point every effort was made by the Colonial Government to obtain the annexation of the Free State diamond fields to itself. In order to fulfil the three conditions Earl Kimberley stipulated for as those alone possible to induce Her Majesty's Government to consent to annexation, in his despatch of instructions to Sir H. Barkly dated November 17th, 1870, noticed in our last Chapter, we must carefully remember that it was the policy of the Colonial Government to make Ministers in Downing Street believe :

1. THAT THE "EXTENSION OF THE SOUTH AFRICAN COLONIES COULD" (*not*) "BE AVOIDED."

2. THAT THE "COLONY" (*would*) "BE WILLING TO TAKE UPON ITSELF THE FULL RESPONSIBILITIES OF GOVERNMENT, WITH THE BURDEN OF MAINTAINING THE FORCE NECESSARY," (TO HOLD THE DIAMOND FIELDS).

3. THAT "THE WHITE IMMIGRANTS" (THE DIGGERS) "CONCURRED WITH THE NATIVES IN DESIRING THAT THE GRIQUA TERRITORY" (INCLUDING THE DIAMOND FIELDS) "SHOULD BE UNITED TO THE CAPE COLONY."

Sir H. Barkly worked energetically and successfully indeed to make the British Government credit these three affirmative replies to Earl Kimberley's hypothetical triune proviso.

His first direct effort appears in a despatch to Earl Kimberley, dated "Bloemfontein, March 8, 1871." He had then just reached the capital of the Free State, on his return journey to Cape Town from a visit to the diamond fields, where he appears, by his statements, to have spent *only four days*; and this is, to the best of my recollection, the correct time. I was present at his arrival on the 26th February, 1871, and remember his departure about the 2nd or 3rd of March. This was not a long visit. Indeed, for the purpose of acquiring any real knowledge of the diamond fields, the desires and necessities of the population, the state of, and the truth concerning the territorial question, it was simply absurd; although ever after the Governor certainly assumed such knowledge with the utmost confidence and *nonchalance*. His official report of this visit contains the following gross misstatements:—

EXTRACTS FROM DESPATCH.

* (a) "After the retirement of Waterboer from the conference at Nooitgedacht in August last, an amicable division of the disputed portion of *his country* was arranged between the Orange and Transvaal Republics, under which the former was to retain the territory on the left bank of the Vaal River, and the latter that on the right bank. . . .

REMARKS THEREON.

(a) Than this paragraph a more entire perversion of the truth never occurred—South Adamantia, including the 143 Free State farms, the Campbell lands, and the territory east of the Hart's River being described as "*his*" *Waterboer's "country"*!—the fact that the Free State had for so many years been in actual possession of "the left bank of the Vaal," Cornelius Kok, Koranas, and Kafirs, of "the right bank," being ignored!

* *Vide* p. 132, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope."—London, August 17, 1871.

(b) "At Cawood's Hope . . . although in the first instance they (the diggers) paid for their licences to the Free State Commissioner, all but two *positively refused to do so on the occasion of his second visit.* . .

(c) "Had I possessed authority from Her Majesty's Government at once to accept the allegiance of the Chief Waterboer . . . I have no doubt that the tone of the opposition, both on the part of the Free State and Transvaal Republic, would have been materially moderated. . . But, unfortunately, your Lordship's despatch of 17th November, forbade my even pledging myself to such a course, and in reply to the earnest appeals of Waterboer on the one hand, and *thousands of British diggers* on the other, I could only explain that Her Majesty's Government had approved General Hay's proclamation. . .

(d) "The language of my replies I need hardly say was as firm as in the face of your Lordship's instructions I could venture to make it; for it appeared to me *that the British Government had already gone too far to*

(b) This is a most mean concealment of the fact that the diggers at Cawood's Hope, being mostly British, were *instigated and induced by Mr. John Campbell* (Waterboer's special magistrate), *and by General Hay's notifications*, to stop payment.

(c) Although, in replying to Waterboer, Sir H. Barkly states there were "many thousands of British subjects now resident in the diamond-producing districts of *your territory*," and in the paragraph under review declares that "thousands of British diggers" had earnestly appealed to him to declare Waterboer and the territory British, the truth is that *only 1,756 diggers* ever appealed to him out of those "*thousands*"; and their petitions were to "adopt prompt measures for the settlement of the territorial questions," *not in any case* to ignore the Free State rights, or to oust its officials from Pniel, where I, as one of the residents, am able to declare that their rule was most satisfactory and popular.

(d) The *animus* here displayed by Sir H. Barkly was noticed at the beginning of this Chapter. The whole tenour of the extracts quoted is plainly to identify the cause of the diggers, the "white immigrants," with that

admit of its ceasing to support the cause of either Waterboer or the diggers, and it was quite clear that any appearance of faltering on my part would only encourage the Free State and Transvaal Republic in upholding their claims.

(e) "Negotiations, however, are still going on, and I trust may end in some provisional agreement by which any collision between the Free State authorities and *the British diggers at Pniel* or Cawood's Hope may be averted.

(f) "I trust, however, that your Lordship will be of opinion . . . that the period of uncertainty, both as regards the acceptance of Waterboer's allegiance, and the system of government under which the diamond fields are to be placed, ought not to be prolonged one moment longer than is absolutely necessary, and that my instructions will be so far modified without delay as, in the probable event of the Cape Parliament . . . agreeing by formal resolutions to take upon itself the first responsibility of Government, with the burden of maintaining any force that may be necessary, to admit of my at once adopting measures for annexing the whole or such portion of Waterboer's country as the Legislature may determine."

of Waterboer, and to make it appear that they "concurred in desiring to be united to the Cape Colony," so as to fulfil the third of Earl Kimberley's conditions for annexation. By and by (in our last Chapter) we shall see that *nothing would have been more distasteful to the diggers.*

(e) "The British diggers at Pniel" were then solely and entirely under Free State rule, with their full consent and approval. No "collision" with "the Free State authorities" was remotely possible, except by Sir H. Barkly's uncalled for interference.

(f) Sir H. Barkly here ingeniously unfolds the programme of the Colonial Government. Assuming, without any authority, that Waterboer and the diggers are unanimous in desiring annexation to the Cape, and that the whole of the diamond fields are Waterboer's, he next strives sequentially to prove that Earl Kimberley's other two conditions are fulfilled; first, that the further extension of the South African Colonies cannot "be avoided;" second, that the Cape Parliament would be willing "to take upon itself the responsibility of governing the diamond fields, and providing any military force necessary to retain possession,"—and compel the submission of the Free State to the robbery. *The Cape Parliament thought otherwise.*

How completely the despatch just noticed, in addition to the previous productions of a similar nature, succeeded in deceiving the British Government, will be seen by Earl Kimberley's reply, who, in a despatch dated "Downing Street, May 18, 1871," states* :—

"It is not without reluctance that Her Majesty's Government consents to extend the British territory in South Africa, but on a full consideration of all the circumstances—

(1) "THE PRESENCE OF SO LARGE A NUMBER OF BRITISH SUBJECTS IN THE DIAMOND FIELDS, THE PROBABILITY THAT THIS NUMBER WILL RAPIDLY INCREASE, THE DANGER OF SERIOUS DISTURBANCES ON THE NORTHERN FRONTIER OF THE CAPE COLONY IF A REGULAR AUTHORITY IS NOT ESTABLISHED WITHOUT DELAY IN WATERBOER'S COUNTRY,

(2) "AND THE STRONG DESIRE EXPRESSED BOTH BY WATERBOER AND THE NEW SETTLERS THAT THE TERRITORY IN QUESTION SHOULD BE BROUGHT UNDER BRITISH RULE, they have come to the conclusion that they ought to advise Her Majesty to accept the cession offered by Waterboer,

(3) "IF THE CAPE PARLIAMENT WILL FORMALLY BIND ITSELF TO THE CONDITIONS WHICH YOU HAVE INDICATED, NAMELY, THAT THE COLONY WILL UNDERTAKE THE RESPONSIBILITY OF GOVERNING THE TERRITORY WHICH IS TO BE UNITED TO IT, TOGETHER WITH THE ENTIRE MAINTENANCE OF ANY FORCE WHICH MAY BE NECESSARY for the preservation of order and the defence of the new border, such force not to consist of British troops, but to be a force raised and supported by the Colony.

"I accordingly transmit to you a Commission . . . for the annexation . . . on the CONDITIONS therein mentioned. . . ."

(1.) By the passage numbered one, Earl Kimberley, converted by Sir H. Barkly's persuasive but delusive representations, considers the first proviso of his de-

* *Vide* p. 172 Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope," London.—August 17, 1871.

spatch of "November 17th, 1870," declaring the "Government have no wish, IF IT CAN BE AVOIDED, to extend the South African Colonies," answered in the negative—"it cannot." Earl Kimberley agrees to this view, because (a) he has been deceived into believing that the diamond fields are in Waterboer's territory; (b) that the "thousands of British diggers" are all in the said territory; (c) and that no regular authority existed—that of the Free State, and especially the remarkably popular administration of Mr. O. J. Truter at Pniel, having been carefully concealed from him!

(2.) By this passage Earl Kimberley expresses his betrayal into believing that his second proviso, IF "THE WHITE IMMIGRANTS CONCURRED WITH THE NATIVES IN DESIRING" ANNEXATION, had been answered affirmatively—"that they did!" The fact that only 1,756 diggers out of 10,000 had been heard, and only by the unreal medium of complimentary reception addresses, every one of which referred to a *just and satisfactory settlement* of the land question, *none to an annexation, per fas et nefas, before* that question had been fairly arranged, being of course either unknown to or unappreciated by the Secretary of State for the Colonies!

(3.) By this paragraph of his despatch Earl Kimberley still reserves his former third proviso—THE ACCEPTATION OF ALL RESPONSIBILITY BY THE CAPE; THE AGREEMENT TO ANNEX BY ITS PARLIAMENT. We shall see although Sir H. Barkly proceeded to annex the diamond fields, that he not only violated this express proviso, but that the Cape Parliament deliberately refused to consent to annexation!

The commission sent to Sir H. Barkly was as follows:—

“Dated May 17, 1871.

“COMMISSION for the ANNEXATION of certain DISTRICTS north of the ORANGE RIVER in SOUTH AFRICA to the COLONY of the CAPE of GOOD HOPE, and providing for the GOVERNMENT of those DISTRICTS. } VICTORIA R.

“VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to our trusty and well-beloved Sir Henry Barkly, Knight Commander of our Most Honourable Order of the Bath, greeting:

“Whereas divers of our subjects have settled in districts north of the Orange River in South Africa, and alleged to belong to certain native chiefs and tribes: and whereas it is expedient, with the consent of such chiefs and tribes (1) AND OF THE LEGISLATURE OF OUR COLONY OF THE CAPE OF GOOD HOPE, to make provision for the Government of certain of such districts as part of our said Colony: Now we do by this our Commission under our sign manual and signet authorize you the said Sir Henry Barkly by Proclamation under your hand and the public seal of our said Colony to declare that, after a day to be therein mentioned, so much of such districts as to you, after due consideration, shall seem fit, shall be annexed to and form part of our Dominion and of our said Colony: And we do hereby constitute and appoint you to be thereupon Governor of the same (2), PROVIDED THAT YOU ISSUE NO SUCH PROCLAMATION UNLESS YOU HAVE FIRST ASCERTAINED THAT THE NATIVE CHIEFS AND TRIBES CLAIMING THE DISTRICT SO TO BE ANNEXED ARE REALLY ENTITLED THERETO, and consent to such annexation (3); NOR UNTIL THE LEGISLATURE OF OUR SAID COLONY SHALL HAVE PROVIDED BY LAW that the same shall, on the day aforesaid, become part of our said Colony, and subject to the laws in force therein. And for so doing this shall be your warrant.

“Given at our Court at Windsor the Seventeenth day of May, One Thousand Eight Hundred and Seventy-one, in the Thirty-fourth year of our reign.

“By Her Majesty's command.

“KIMBERLEY.”

^s (1.) (2.) (3.) These stipulations are very distinct and specific. Unless they were all three first fulfilled, the Commission could not legally be put in force. We shall see what unlawful use Sir H. Barkly made of it.

CHAPTER XIV.

CONSUMMATION OF THE COLONIAL GOVERNMENT'S SCHEME, INVASION OF THE FREE STATE, AND FORCIBLE SEIZURE OF THE DIAMOND FIELDS. THE CAPE PARLIAMENT REPUDIATES AND REJECTS THE ANNEXATION: THE GOVERNOR'S CONSEQUENT PLOT TO MAKE THE CAPTURED TERRITORY A CROWN COLONY.

SIR H. BARKLY'S TERGIVERSATIONS.—RESOLUTIONS ADOPTED BY THE CAPE PARLIAMENT, AND THEIR PERVERSION BY SIR H. BARKLY.—HOW THE BRITISH GOVERNMENT WAS DELUDED.—EARL KIMBERLEY'S REPLY, REITERATING THE CONDITIONS ON WHICH THE DIAMOND FIELDS WERE ALONE TO BE ANNEXED.—VIOLATION OF THOSE CONDITIONS, HOSTILE INVASION OF THE FREE STATE, AND FORCIBLE SEIZURE AND ANNEXURE OF ITS DIAMOND FIELDS BY SIR H. BARKLY.—PROTEST BY THE ORANGE FREE STATE GOVERNMENT.—PROOF THAT THE TERRITORY SO SEIZED BELONGED TO THE FREE STATE.—REJECTION BY THE CAPE PARLIAMENT OF SIR H. BARKLY'S BILL TO LEGALIZE AND ENDORSE THE ANNEXATION.—THE COLONIAL SECRETARY'S MISTATEMENTS.—THE SEIZURE OF THE DIAMOND FIELDS AN ACT OF BRIGANDAGE.—THE ATTEMPTED ANNEXURE TO THE CAPE HAVING PROVED A FIASCO, SIR H. BARKLY PROPOSES TO MAKE THE TERRITORY PLUNDERED (THE DIAMOND FIELDS) A SEPARATE CROWN COLONY.

After repeated and careful perusal of the whole of the very voluminous correspondence, official and non-official, relating to the controversy between the British, Colonial, and Free State Governments, Waterboer's claims, and the annexation of the diamond fields, I

find it utterly impossible to arrive at any other conclusion than that Sir Henry Barkly, supported, or guided, by his Executive Council, deliberately disobeyed and violated the three distinct conditions upon which alone he was given authority to annex.

In the first place I accuse him of not making any effort, subsequent to the receipt of the conditional commission, to "*first ascertain that*" (*Waterboer*) "*claiming the district so to be annexed*" (*was*) "*really entitled thereto.*" Instead of attempting to fulfil this solemn obligation, he acted upon his own hasty and foregone conclusion, expressed before he had been more than a few days in the Colony,* by which he accepted the wrongful policy of his predecessor; possessing at the time (as we have seen by his own admission, in Chapter XIII.) *only one document* in support of Waterboer's case; although, in a letter to President Brand, dated † "Government House, January, 2, 1871," he had declared the subject "*a question, the equitable solution of which must from its very nature depend upon the weight of the documentary evidence which can be adduced*"!

Secondly, I unhesitatingly assert that, instead of first obtaining the "*consent*" of the Cape Parliament, and waiting until it had "*provided by law*" for the annexation, he, by misrepresentations, obtained only certain "*resolutions*" to exercise temporary jurisdiction over "*such part of the diamond fields as belongs to the Griquas under Waterboer*"; that, instead of so doing, he proceeded, not to exercise temporary juris-

* *Vide* Sir H. Barkly's despatches of January 11th, 23rd, and February 1st, pp. 120, 127, and 107, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope."—London, August 17, 1871.

† *Vide* p. 111, *Ibid.*

diction, but to misapply his commission, and abuse the meaning and intent of the said "resolutions," by formally and forcibly *annexing*, not only Griqualand West, but the whole of the diamond fields, including the extensive tract of Free State territory, containing 143 Free State farms, cut off by the concocted line from Ramah *via* David's Graf to Platberg.

The first resolution, carried only by a narrow majority of five, was agreed to by the House of Assembly on the 19th July, 1871.*

The original motion, as amended, was then read, viz: 'That, in the opinion of this Committee, it is desirable and needful, as well for the interests of this Colony as with a view to the maintenance of peace and order on our borders, *that such part of the territories commonly designated "The diamond fields" as belongs to the Griquas of West Griqualand, under the government of Captain Nicholas Waterboer, or to other native chiefs and people living in the vicinity of the said Griquas, should, in accordance with the desire expressed by the large number† of British subjects now located there, and with the sanction of Her Majesty the Queen, and the consent of the said Griquas and other natives, be annexed to the Colony. And this Committee is further of opinion that, if measures having for their object the annexation of the territories aforesaid, and the good government of the people resident therein, are introduced into the House of Assembly by His Excellency the Governor, it is expedient that the House should give its most favourable attention thereto, and should do what in it lies to make proper provision for the government and defence of the said territory, and for meeting the expenditure that may be occasioned thereby.*'

"This motion was put and agreed to."

This resolution is entirely hypothetical; but it

* *Vide* p. 366, "Votes and Proceedings of the House of Assembly," No. 46—1871.

† The fact that only 1,756 diggers had, by a complimentary address, out of many thousands, "expressed" any such "desire" seems to have been suppressed

points out "such part of the diamond fields as should be annexed," and that if measures having for their object the annexation are introduced into the House of Assembly, they should "receive its most favourable attention."

It was put before the Legislative Council on the 26th of July; on the 28th, Mr. De Roubaix, Chairman of the Committee, proposed as an amendment*:

"That, in the opinion of this Council, it is desirable that the diamond fields should be annexed to this Colony, *but that such annexation should not be carried out until the question of disputed territory should have been finally settled. . . .*"

"Mr. DESMIDT observed that the Council, in making provision for the defence of the diamond fields, *was doing that which was tantamount to a declaration of war against the Free State. . . .*"

"The amendment was then put and negatived, on a division, by *nine contents to ten malcontents.*"

By only *one* vote the resolution which had been carried by *only five* in the House of Assembly was agreed to. In acknowledging the receipt of an address from both Houses of Parliament concurring in the resolution on the 31st of July, Sir H. Barkly made the following extraordinary and Jesuitical reply considering his past, present, and future action.†:—

"As the question of native titles to lands . . . awaits the award of his Excellency Lieut.-Governor Keate . . . and as the claims (?) preferred by the Orange Free State to certain portions of West Griqualand (?) . . . still form the subject of correspondence . . . the Governor fears that it would be premature to attempt to establish by law a regular form of Government in a country of which the boundaries are yet so undefined. . . . The Governor

* *Vide* p. 195, "Debates in the Legislative Council."—Vol. iv. 1871.

† *Vide* p. 433, "Votes and Proceedings of the House of Assembly," No. 54—1871.

must, therefore, defer till next Session any recommendations as to legislating for this object, and endeavour, meanwhile, by employing such officials as may be found requisite, and with the aid of a sufficient body of the Frontier Police, for the preservation of order, to conduct the internal administration of any territory the charge of which may happen to devolve upon his hands."

The fact that an *irregular* "form of Government," *without* "law," had already *been established* over Free State territory, by the appointment of British magistrates, was carefully kept in the back ground. How is the above declaration to his Parliament to be reconciled with the following ultimatum Sir H. Barkly had sent off to the President of the Free State in a despatch dated July 18th ?

"I feel bound * to notify to your Honour that I hold a commission under the Royal Sign Manual, authorizing me to accept the cession of territory offered by Captain Waterboer, and to annex the same to this colony, with such boundaries as I may see fit to proclaim."

Besides its totally opposite character to the moderate policy expressed to the Cape Parliament, this arrogant assertion of Sir H. Barkly's, by reason of the entire suppression of the conditions on which alone any such authority was given him by the Commission, is not only a deliberate *suppressio veri*, but an equally intentional *suggestio falsi*.

"I should be extremely reluctant, irrevocably, to fix these boundaries," adds the Governor, with exquisite irony, "in direct opposition to the *claims set up* by the Orange Free State, so long as the slightest chance exists of an amicable adjustment, either by means of arbitration or otherwise, *and I shall wait*, therefore, for a reasonable period, your Honour's reply to this communication."

* *Vide* p. 16, Blue Book, "Further correspondence respecting the affairs of the Cape of Good Hope,"—London, February 6, 1872.

Considering that Earl Kimberley had been provoked to refuse the Free State Government any voice in the interpretation and construction of the Treaty or Convention to which it was the second party; that the *foreign* arbitration (the only just and impartial method, and that which is countenanced by international law) as proposed by President Brand, had been peremptorily refused; and that Sir H. Barkly betrayed his gross, illogical, but interested partizanship in favour of Waterboer by terming the *defence of its actual possessions* "the claims *set up* by the Orange Free State"; we leave our readers to judge as to what chance existed of "an amicable adjustment," and as to who was to blame.

But the reason Sir H. Barkly gives in this ultimatum for delay, and the reason which he gave to the Cape Parliament for delaying the introduction of measures having for their object the required "consent" and "provision by law," for the annexation of "such part of the diamond fields as belonged to Waterboer," are both false. This following quotation contains the real reason why he delayed proceeding just then to extremities with the Free State; and why, instead of then endeavouring to obtain the consent of Parliament to a Bill sanctioning his hostile policy towards the Free State, and agreeing to the conditions required preliminary to annexation, he also delayed that matter.*

Extract from the Minutes of the Proceedings of the Executive Council, dated Government House, July 29, 1871.

"An Address, No. 24 of the 24th instant, from the Honourable the Legislative Council, expressing its concurrence in the resolutions adopted by the Honourable the House of Assembly upon the subject

* *Vide* p. 7, Blue Book, "Further correspondence respecting the affairs of the Cape of Good Hope."—London, February 6th, 1872.

of the diamond fields, having been laid upon the table, His Excellency the Governor solicits the advice of the Council as to the propriety of now sending down a Bill for annexing the territories in question ; or as to whether it might not be more prudent—looking to the majorities by which the resolutions had been carried in the two Houses, to the departure of some members who voted in, those majorities as well as to the late period of the Session—to delay the step till the next Session of Parliament, and to remain content, in the meantime, with obtaining an expression of its approval of the retention upon the fields of a detachment of the Frontier Police ; and of the adoption of such other measures connected with the administration of justice, and the preservation of peace and order, as circumstances may from time to time demand.

“As the Council believes that there would not, at present, be the slightest hope of carrying such a Bill through either House, and is, indeed, apprehensive that any attempt of the kind might frustrate the very objects contemplated by the Government, it strongly recommends the adoption of the second alternative suggested by His Excellency, and that legislation be deferred until next Session.

“His Excellency the Governor concurs in the views expressed by the Council, and it is ordered accordingly.”

What “objects” were “contemplated by the Government”? To the Parliament the Governor had declared that his only object in delaying legislation on the subject was because the boundary question was unsettled, thereby implying that his wish was similar to that of the House, viz., that no injury should be done to the Free State, and that annexation should be delayed until an amicable adjustment of the boundaries had first been arrived at. To President Brand he had penned a very different intimation. Is it not true that the real “objects of the Government” were in accordance with that threat “to annex the cession of territory offered by Waterboer with,” in order to obtain the diamond fields, “such boundaries as I (Sir H. Barkly) may see fit to proclaim”? We shall see that they were; that, without waiting for either the “con-

sent" or formal acceptance of and agreement to annexation "by law," by the Cape Parliament, he proceeded to put his threat to President Brand in execution.

Being afraid, from the bare majority of *only one vote*, by which even the fair, impartial, and hypothetical "resolutions" had been but just dragged through the Houses, that any such Bill as that embracing their "objects" would be certainly rejected, the Government cunningly obtained a further "resolution" from both Houses of Parliament, by acting upon and far beyond the terms of which (even proceeding so far as to annex the whole of Waterboer's country, together with all territory his unsupported *ipse dixit* claimed from the Free State) Sir H. Barkly and his colleagues tried to so far commit Parliament to their policy, "objects," and action, as to ensure an approval and endorsement of the annexation—an unlawful postliminious legalization of the originally unauthorized and illegal act as the unavoidable consequence of an accomplished fact. We shall see that the members of the Executive Council very much deceived themselves as to the docility of Parliament, and the result they anticipated.

The last and most fatal of the "resolutions" was very quietly moved, in a scantily attended House, upon the 5th of August, 1871, by Mr. Southey, the Colonial Secretary, Waterboer's principal advocate, and, as is well known, from certain private motives, a bitter enemy of the Orange Free State; indeed, *apropos* to the insinuation, it is also equally notorious that Sir H. Barkly is alleged to have an even greater personal cause for his ruthless and apparently insensate

animosity; but it is a subject we may not further ventilate.

The Colonial Secretary* moved: 'That, pending the adjustment of the boundary disputes, and the passing of a law for the annexation of the diamond fields to this Colony, this Committee is of opinion that the Governor should be requested *to adopt such measures as may appear to him to be necessary* and practicable for the maintenance of order among the diggers and other inhabitants of that territory, as well as for the collection of revenue and the administration of justice.' "

On the 7th of August† this "resolution" also passed the Legislative Council.

In the words of Mr. Godlonton, the members, no doubt, one and all, "*regarded this as merely carrying into effect the resolution which had passed the Council.*"

"Dr. WHITE seconded the motion. He said the receipt of this message had confirmed him in the opinion he had previously expressed, *that there was no serious intention of annexing the diamond fields* . . . The message had relieved his mind."

"The TREASURER-GENERAL remarked that . . . the resolution was intended to strengthen the hands of the Government, *while the question of annexation was still pending.*"

Amidst such views and interpretations the "resolution" was agreed to.

If it had clearly and distinctly set forth the fact on which it was based, namely, the express limitation by which all annexation, &c., was to be confined to "*such part of the diamond fields as belongs to Waterboer,*" no one could have had cause to demur, nor could Sir H. Barkly have tried to make it a justification

* *Vide* p. 479, "Votes and Proceedings of the House of Assembly." No. 59—1871.

† *Vide* p. 229, "Debates in the Legislative Council." Vol. iv., 1871.

for his subsequent misdeeds. Virtually, however, by a loose, or more likely intentional verbiage, and taking this resolution alone, it endorsed the existing presence of British magistrates on Free State territory, and countenanced an even further extension of that same "irregular Government" over the whole of the diamond fields.

Four days later, in his prorogation speech, Sir H. Barkly stated :

"Of the other questions* . . . that of annexing *those parts* of the diamond fields *which belong to the Griquas* . . . who have petitioned to be received as British subjects, was by far the most important . . . and I thank you especially for the confidence you have been pleased to repose in myself personally, by authorizing me, *in anticipation of the passing of an Act for regulating the Government* of the territories thus to be added, to adopt such measures as may be necessary for the maintenance of order, the collection of revenue, and the administration of justice therein."

Well, it was a case of misplaced "confidence." The Governor's preconceived determination to *annex* the diamond fields here appears, although he was only authorized by the "resolutions" adopted "*to maintain order*," &c. That sentence—"in anticipation of the passing of an *Act for regulating the Government*"—bears a sinister significance; for, whereas the Act yet to be passed was for the express purpose of "consenting" to annexation of the diamond fields at all, and "by law" establishing that "consent," and fulfilling the three special conditions assigned by Earl Kimberley, Sir H. Barkly here assumes that annexation *was* consented to, and the required Act was only "for regulating the Government."

Moreover, he was really only authorized to take

* *Vide* p. 257, "Debates in the Legislative Council," Vol. iv., 1871.

"measures for the maintenance of order," &c., at "such part of the diamond fields as *belongs* to Waterboer." *Where, how, and by what authority was he ever authorized to seize upon and annex "such part as belongs" to the Free State?*

Especially is the fact to be deplored by lovers of justice, that the Cape Parliament had so confused and inaccurate an idea of where the diamond fields were situated as to be made believe that *any part* belonged to Waterboer. Klip Drift and Hebron, on the north or right bank of the Vaal, were "diggings in" territory belonging to Koranas and Kafirs—as we have seen by the declaration in Chapter I. All the rest of the diamond fields did then belong to the Free State. It is a great pity that the point involved by this word "belongs" was not noticed at all. Even admitting for a moment, for the sake of argument, that Waterboer may *once* have possessed the lands in question, at that time they did not "belong" to him; for, as a matter of fact, as an existing optical proof to the contrary, they did and could only *belong* to the State then and for at least the last twenty years actually in *bonâ fide* possession of them. The postulatory claim put forth by Waterboer could not make them belong to him; it was first necessary for him to prove his claim legally, and then to oust the Free State Government and enter into possession. If one man says that he has a right to some other man's *de facto* property, he may say that it *ought*, also to be in his possession; but he cannot, according to Lindley Murray, say that it does actually then at the present time "belong" to him.

How Sir H. Barkly wilfully misinterpreted the "resolutions" of the Cape Parliament is fully proved

by the following extracts from his report to Earl Kimberley, and a dispatch to Waterboer, immediately after the prorogation; by his annexation of the whole of the Free State diamond fields, during the recess; and by the repudiation of that act, and a distinct refusal and rejection of the Annexation Bill by both Houses of Parliament during the next Session.

On the 15th of August, in a despatch to Earl Kimberley, he says:

"Your Lordship will,* I feel confident, regard the second address thus unanimously adopted by both Houses, authorizing me, pending the passing of a law for its annexation, to exercise sovereign jurisdiction over the territory *belonging* to Waterboer and other native chiefs, AS A SUBSTANTIAL COMPLIANCE WITH THE REQUIREMENTS OF HER MAJESTY'S GOVERNMENT, and will sanction and approve *such steps* as I may, upon consultation with the Executive Council, deem it advisable to take for carrying out the request of the Cape Parliament."

That the Cape Parliament ever gave or intended any such "substantial compliance," or made any such "request," is, as we have already seen, utterly false. This is proved by the subsequent repudiation at the first possible and available opportunity.

In a despatch to Waterboer, dated "Cape Town, August 16, 1871," Sir H. Barkly describes pretty clearly what "*such steps*" were:—

"It is my intention,* as early as may be after my receipt of your answer to this communication, to proclaim, in Her Majesty's name, her assent to your proposal, . . . and by such proclamation to

* *Vide* p. 4, Blue Book, "Further correspondence respecting the affairs of the Cape of Good Hope."—London, February 6, 1872.

* *Vide* p. 19, *Ibid*.

declare that you and your people shall be and be deemed thenceforward British subjects, and your and their territory shall be and be deemed British territory, pending the annexation of such territory to this Colony."

The Cape Parliament never authorized any such "proclamation;" nor did the British Government, unless the said Parliament had *first authorized it, and agreed to the three conditions* in Earl Kimberley's despatch of May the 18th, which conditions are also set forth in the commission quoted *in extenso* at the end of Chapter XIII.

That Earl Kimberley was entirely deceived in the matter is evident from his reply:—

"Downing Street, October, 2, 1871.

"I have received* your despatch of August 15, reporting the result of the introduction into the Cape Parliament of resolutions affirming the expediency of annexing the diamond fields," (what about "such *part* as belongs to Waterboer"?) "*and pledging the Colony to make provision for the government and defence of the territory* . . . The second, in conjunction with the former resolutions, will, no doubt, AS INDICATING THE INTENTIONS *of the Cape Parliament*, materially strengthen your hands in endeavouring to remedy the inconveniences which may arise from the postponement of the Bill, ALTHOUGH THE SECOND RESOLUTIONS DO NOT IN THEMSELVES AMOUNT TO A FORMAL COMPLIANCE WITH THE CONDITIONS LAID DOWN IN MY DESPATCH, No. 78, OF MAY 18."

Sir H. Barkly chose to think differently, and act accordingly. But the Cape Parliament then refused "a formal compliance" with those "conditions," and so threw the entire responsibility for the unlawful annexation—the legal "robbery"—of the Free State

* *Vide* p. 8, Blue Book, "Further correspondence respecting the affairs of the Cape of Good Hope."—London, February 6, 1872.

diamond fields upon the Governor and the other members of their "irresponsible" Government.

On the 27th of October, 1871, Sir H. Barkly proceeded by proclamation to annex Waterboer's territory, together with *the whole of the diamond fields, to the Cape Colony*, including, of course, South Adamantia, with the 143 Free State farms. In this unauthorized proclamation, Sir H. Barkly explains the "steps" by which he perverted the purpose and meaning of the Cape Parliament's "resolutions":—

"And, whereas* it is necessary for the purpose of so 'maintaining order, collecting revenue, and administering justice' in the said territory, that I should, in Her Majesty's name, grant the prayer of the said Chief, Nicholas Waterboer, and his said people, and assume sovereign jurisdiction in and over the said territory :

"Now, therefore, I do hereby proclaim and declare that from and after the publication hereof, the said Nicholas Waterboer, and the said tribe of the Griquas of Griqualand West shall be, and shall be taken to be, for all intents and purposes, British subjects, and the territory of, or belonging to, the said Nicholas Waterboer, and the said tribe shall be taken to be British territory."

The false premises on which this proclamation is constructed have already been described in other instances. That it was "*necessary* for the purpose of maintaining order," &c., over "*such part* of the diamond fields *as belongs* to Waterboer" was a condition absolutely null and void; for, as we have repeatedly proved, at that time not one foot of those diamondiferous regions did belong to him. Then perfect law and order, administration of justice, and collection of revenue (though not into the Colonial coffers, which was the main object and desire of the

* *Vide* p. 33, Blue Book, "Further correspondence respecting the affairs of the Cape of Good Hope"—London, February 6, 1872.

Cape Government) did already exist throughout the diamond fields. At Cawood's Hope, Klip-Drift, Hebron, and such diggings as were on the north or right bank of the Vaal, the usurped jurisdiction of the special magistrate appointed by Waterboer and General Hay prevailed; whilst at Pniel, Du Toit's Pan, De Beer's, Bultfontein, and such diggings as existed on the south, left, or Free State bank of the Vaal, a most popular and effective jurisdiction was exercised by the officers appointed by the Government of the Orange Free State.

Why does Sir H. Barkly conceal the truth—the universally acknowledged fact—that it was in order to “jump” (as the diggers all expressed it), steal, and by force seize upon Pniel, Cawood's Hope, and, above all, the lately-discovered and richest of all the diamond fields, the famous “dry diggings” of Du Toit's Pan, Bultfontein, and De Beer's, that the Colonial Government issued that illegal Proclamation? that it was especially in order to include these three last-named places—all old Free State farms—that the line from Ramah *viâ* David's Graf to Platberg was proclaimed, and a most unwarrantable aggression, a most bandit-like and cowardly violation of special treaty and international law perpetrated at the expense of the Free State?

The diggings at Bultfontein also extend upon the adjoining farm, “Alexandersfontein,” for which a British land certificate was given, as appears in the books of the Land Register during the time of the Orange River Sovereignty, on the “16th September, 1848!” Where, then, was Waterboer? From the period of the abandonment of the British Sovereignty

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ASTOR, LENOX AND
TILDEN FOUNDATION

*Boundary of Territory Claimed for Waterboer, as
Colony by Sir H. Barkley's Proclamation of October 1*

*Free State Territory including the Campbell la
South Adamantia containing 143 Free State Fiefstroom*

Original boundary line of Taaibosch Koranas

Boundary of the Country originally Settled by the

*Boundary line defined in 1820 by Dam Roks between
and Griqua Town See p. 38.*

Diamond Fields ?

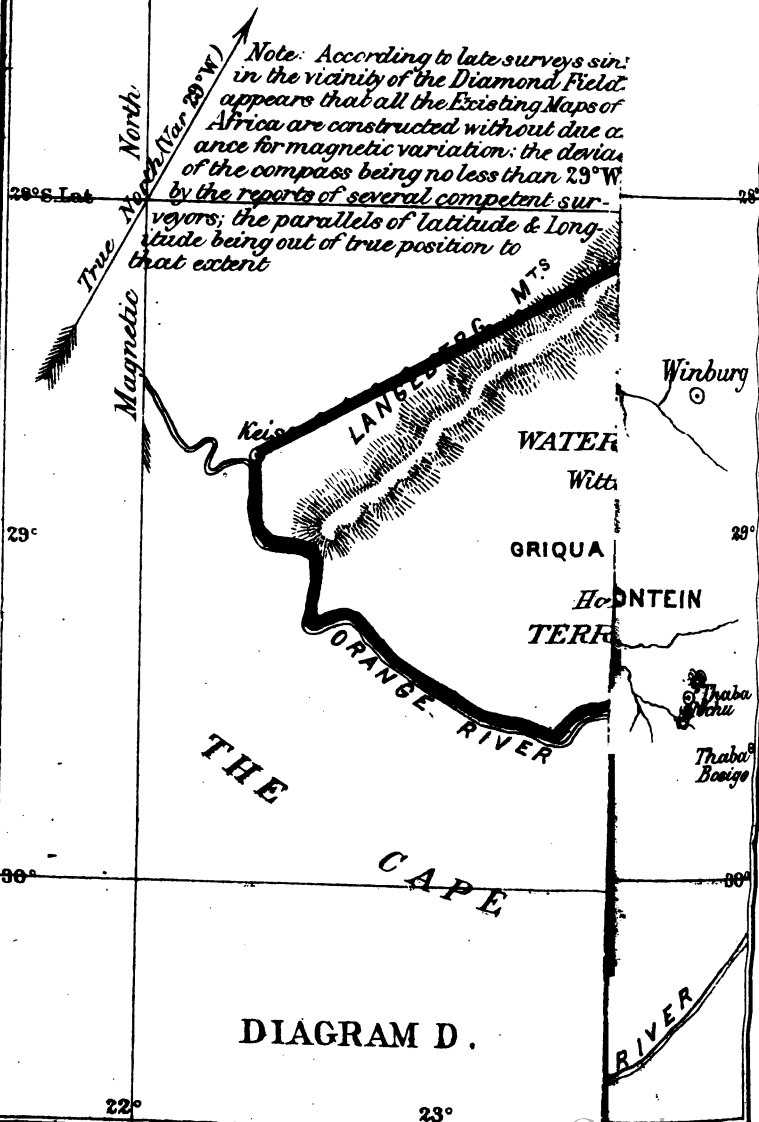


DIAGRAM D.

this and the other farms have known no other Government, from 1854 until the forcible seizure by Sir H. Barkly, in November, 1871, than that of the Orange Free State !

The boundaries proclaimed by Sir H. Barkly as those of "Griqualand West" were as follows :

"On the south by the Orange River, from the point nearest to Kheis; on the west to the point nearest to Ramah on the east, *thence in a northerly direction to David's Grave, near the junction of the Modder and Riet rivers, thence in a straight line in a northerly direction to the summit of the Platberg . . .* from the summit of the Platberg, in a straight line in a north-westerly direction, along the north-east of Roeloff's Fontein, cutting the Vaal and Hart's rivers to a point north of Boetchap, thence in a straight line in a westerly direction running between Nelson's Fontein and Koning; thence passing south of Maremane and north of Klip Fontein, in a south-westerly direction, in a straight line to the northerly point of the Langeberg, and thence in a straight line in a southerly direction to Kheis aforesaid, and thence to the nearest point on the Orange River aforesaid."

In addition to Waterboer's *boná fide* territory, the extensive lands thus cut off from the Orange Free State by the line from Ramah *via* David's Graf to Platberg, and from certain native tribes, to the east of Hart's and north of Vaal rivers by the north-west and westerly continuation of that line, will be seen upon reference to the accompanying diagram D.

Upon receipt of Sir H. Barkly's proclamation, on the 4th of November, 1871, the British officials stationed at Klip Drift moved an armed force of mounted police into Free State territory, and took forcible possession of Du Toit's Pan and the adjoining "dry diggings;" but, in consequence of a protest immediately forwarded by the Free State magistrate, Mr. O. J. Truter, to Inspector Gilfillan, in command of the

invading force, that officer temporarily withdrew his men.*

"On the 16th instant," however, in the words of President Brand, "Messrs. Campbell and Thompson, acting on behalf of Sir H. Barkly, gave notice to the Landdrost of Pniel that they would, notwithstanding his protest, exercise civil and criminal jurisdiction within that district; and would prevent the continuation of magisterial and other functions by the Landdrost of Pniel and the other officers appointed by this Government, and on the same day the Cape Frontier Mounted and Armed Police forcibly took from the Orange Free State a prisoner in their custody . . . Wishing to prevent, as far as lay in their power, any collision . . . the Government of the Orange Free State have issued orders to the Landdrost of Pniel and the officers of this Government, to abstain for the present, under protest, from the exercise of the authority lawfully belonging to them, over the district of Pniel, without prejudice to and fully maintaining and preserving all their rights, authority, and jurisdiction."

Upon receiving information of the invasion of their territory, on the 4th of November, the Free State Government issued the following very moderate and reassuring proclamation. Thousands of diggers were at the time in a state of dangerous excitement, and I, as a resident then, and for many previous months, at the "dry diggings," have no hesitation in declaring my firm conviction that it required but one word to that effect from their Government, and the great majority of the Free State diggers would have flown to arms to repel the aggression; whilst I am even more certain that but few of the British diggers would have taken part with the invading force, which nearly every man of sense looked upon as an uncalled-for,

* *Vide* p. 51, O.F.S. Blue Book, "Correspondence between the President of the Orange Free State and the Governor of the Colony."—Bloemfontein, 1872.

distasteful, and unwarrantable outrage. I can conscientiously affirm that I did not hear any old digger, British or Colonial, express a different opinion; though a few—and a very few—new arrivals, just fresh from England, and totally unacquainted with the nature and merits of the case, did express their sentiments to the effect that wherever Englishmen went they should carry their flag! It is, however, certain, that, had the diggers once become involved in hostilities, by far the great majority would have joined the Free State. The Free State magistrate and commissioner, Mr. O. J. Truter, then stationed at Du Toit's Pan, was most popular with every man on the fields, and with justice, as the lamentable *fiasco* the new Government made of exercising jurisdiction over the diamond fields, after expelling that of the Free State, forcibly illustrates.

PROCLAMATION.

“Whereas, I, Johannes Hendricus Brand, President of the Orange Free State, have received a copy of a proclamation from His Excellency the Governor of the Cape Colony, dated — day of —, 1871, by which Captain Waterboer and his people are proclaimed British subjects, and a large portion of the territory, which has for many years been under the jurisdiction of the Government and Law Courts of this State, and in the quiet and peaceful possession of its burghers, British territory, against which the Government of the Orange Free State protested to His Excellency the Governor of the Cape Colony; and

“Whereas I this morning received information from the Landdrost of Pniel, Mr. O. J. Truter, that Inspector Gilfillan, and fifteen men of the Colonial Frontier Armed and Mounted Police, have moved on to Du Toit's Pan, and with fifty men of the said Frontier Force of the Cape Colony on to Vooruitzicht (De Beer's) and within the territory of the Orange Free State, and are stationed there now, against which the Landdrost of Pniel before mentioned formally and solemnly protested to the said Inspector Gilfillan, as also against the exercise of any authority by him, or any person in the name of the Government of the Cape Colony; and

"Whereas I, on the receipt of the letter of His Excellency the Governor, dated the 23rd October, protested on the 2nd instant, on behalf of this Government, against the said proclamation, *as a violation of Art. 2 of the Convention of the 23rd of February, 1854, and an encroachment upon the rights and territory of the Orange Free State* :

"I, therefore, herewith protest against the entrance of the above-mentioned armed force of the Government of the Cape Colony, on the territory of the Orange Free State *as a violation of its territory, and as a hostile invasion in time of perfect peace* which has hitherto existed between the Cape Colony and the Orange Free State, and against the exercise of any authority by or on behalf of the Government of the Cape Colony, on or over the before mentioned farms, or on any diggings or places situated within the territory of the Orange Free State ; and

"Whereas I am desirous of preventing any collision between the Governments and peoples of the Cape Colony and this State, who are allied to each other by the strongest ties of blood and friendship, therefore I hereby order and enjoin all officers, burghers, and residents of this State, to guard against any action which might lead to such collision, in the fullest confidence that the information and explanations which will be given to Her Britannic Majesty's Government in England by our Plenipotentiary will secure the acknowledgment and recognition of our just rights.

"Given under my hand and the Great Seal of the Orange Free State, this 7th day of November, 1871.

"J. H. BRAND, *President*.

"By order,

"F. K. HÖHNE, *Gov. Secretary*."

In all human probability this timely and dignified, firm yet pacific protest prevented a serious affray and the loss of many lives, if not, indeed, the origin of a sanguinary war. But it is not alone in this instance that both the Orange Free State and the Cape Colony have to thank the able and sagacious, above all, humane President of the former. If I am rightly informed—and having received the information from several high officials who were actually present, and whose testimony is beyond all suspicion—at the Special

Extraordinary Session of the Volksraad, convoked by President Brand to consider the gross violation and forcible seizure of part of their territory, when, on the 4th of December, 1871, the subject was debated, to a man, the whole of the members of the Parliament rose to their feet, and the cry was, "War! War!" With admirable patience, wisdom, and perseverance, President Brand successfully restrained and subdued this dangerous and unanimous expression of sentiment. Considering that in an emergency such as that in question the Free State could put from eight to ten thousand able-bodied men in the field, all well mounted, well armed, and capital shots, and constituting a most effective and formidable irregular force, if handled according to the principles of guerilla warfare; and considering, moreover, that the enthusiasm of a defensive and national war, *pro libertate patriae*, would have animated the whole country, it is no small credit and gratitude to which he who prevented so great a catastrophe to South Africa is entitled. I have seen to what even Chinese rebels, almost unarmed, are inspired in such a war; and I have a far higher opinion of the people of the Free State. The Cape Colony has reason to be grateful to President Brand; for, had he but yielded to the popular indignation, the Colonists would either have had to embark in a fratricidal war—contrary to their wishes, and the expressly indicated feeling of their Parliament, in order to support their new Governor's unjustifiable outrage—or else rebel against his arbitrary and unlawful acts, refuse compliance to the call to arms, and leave him and the small force then at his command either to be supported or abandoned by the British Government.

As an abstract principle, in the cause of right and justice, it is, perhaps, a great pity that the whole male population of the Free State were not called to arms to defend their country and repel aggression. It is very doubtful whether, in such case, the nearly allied people of the Colony of the Cape of Good Hope would ever have dreamed of embarking in an entirely aggressive war, a hostile invasion of the Free State, at the behest of Sir H. Barkly—that the Imperial Government would have supported him *when he had done exactly that which he was told not to do*—viz., annex, by forcibly seizing from the Free State, “such part of the diamond fields” as did *not* “belong to Waterboer,” and *without* the “consent” of the Cape Parliament—seems equally unlikely. It is far more probable that the Governor would have had to suffer for his utterly inexcusable aggression, and that the Orange Free State would have been left to the enjoyment of its indisputable rights and territory.

Diplomacy, however, was resorted to (which has not yet obtained justice), and Sir H. Barkly saw that, by the law of might, he could plunder and outrage the neighbouring State with impunity.

The following extracts from a despatch, President Brand to Sir H. Barkly, dated “Bloemfontein, 7th February, 1872,” are extremely important, as proving that neither Pniel nor that district ever belonged to Waterboer:—

“That Her Majesty’s Government* exercised civil and criminal jurisdiction *before the abandonment*” (*of the Sovereignty*), “and that

* *Vide* p. 77, “Correspondence between the President of the Orange Free State and the Governor of the Cape Colony.”—Bloemfontein, O.F.S., 1872.

the Orange Free State, *after the abandonment, continued to exercise such jurisdiction* over the territory transferred to it, but now claimed on behalf of Captain N. Waterboer, and recently proclaimed British territory, is also proved, amongst other documents and evidence, by a letter . . . of which the following is a copy"—

"His Honor J. H. BRAND, "Bethany, Sept. 18, 1871.

"President of the Orange Free State.

"SIR,—We, the undersigned, together with the other Missionaries of the Berlin Mission Society, resident in the Free State, request your Honour to bring the following petition under the consideration of the Free State. And although we have no sure ground to go upon, that the English Government will annex the diamond territory, in which our Mission Station Pniel is situated, yet, as such a report is circulated, and according to the last intimation of His Excellency Sir Henry Barkly, such a measure appears to be in contemplation; therefore it is our earnest wish that *Pniel remains, as hitherto, under the Free State Government.*

"Under the present Government we have experienced justice and protection, and have been enabled peaceably to carry on our Mission work. Also, we are satisfied with the measures taken by the Free State Government, in reference to the diggings at Pniel, which has relieved us from a great deal of care and anxiety. . . .

"In conclusion, from our long experience and knowledge of land questions in this country, we must acknowledge the full right of the Free State Government to exercise jurisdiction over Pniel.

"During the time of the British Sovereignty Pniel stood under the Magistrate of Bloemfontein (Mr. Stuart), who came himself, in criminal cases, to Pniel. THE CHIEF, OLD ANDRIES WATERBOER, NEVER EXERCISED ANY JURISDICTION THERE.

"And it stands to reason, that this right passed from the British Government to the Free State Government, when the above-named Government gave the Sovereignty over to the present Government of the Free State, which has, from that time to the present, taken Pniel under its jurisdiction.

"Therefore we beg the Free State Government, if necessary, to take measures that Pniel may remain under the Free State Government.

"We have the honour to be,

"Your Honour's most obedient servants,

(Signed)

"O. F. WURAS,

"J. N. MEYFARTH,

"Missionaries of the Berlin Mission Society."

Still further indisputable proof that neither Pniel nor the adjacent district ever belonged to, or was occupied by Waterboer, is supplied in a despatch from President Brand to Sir H. Barkly, dated "Bloemfontein, November 6th, 1871," from which we call the following extract:—

"That Captains A. and N. Waterboer* never had or occupied the ground claimed by Captain N. Waterboer from DAVID'S GRAF to PLATBERG can be proved by a host of witnesses, and is also clear from the beforementioned letter of Captain A. Waterboer" (to Mr. Jacobs. Quoted in Annexure to Chapter 10) "and other documentary evidence. For instance, from what is stated . . . by Mr. Assist. Com.-Gen. Green . . . p. 50, Blue Book, 'Further Correspondence, &c., . . . presented to both Houses of Parliament in 1853:'—'A second party . . . purchased, &c., . . . and a third, under Fourie, obtained in the same manner from the Koranna Chief, David Dantzer, an extensive tract of country to the westward of Bloemfontein between the Modder and Vaal.' (quoted at p. 31, Chapter II.).

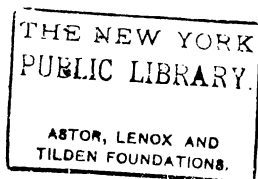
"The document dated over Modder River, 15th May, 1839, acknowledging the sale, can be seen in the office of the Secretary to Government at Bloemfontein, is signed by D. S. Fourie and the mark of David Dantzer, and bears the following memorandum, initialed H. D. W., in the handwriting of Major Warden, and dated Bloemfontein, 6th January, 1848:—

"Kaptyn Jan Bloem this day acknowledged in my presence that he was present, and is aware that David Dantzer entered into this agreement with his own free will and without any threat whatever."

(a) "On the sketch of which I have the honour to enclose a tracing, David Dantzer has ground allotted to him ten miles above Platberg, ten miles below, and ten miles out from the river, recommended by Major Warden and approved by Sir H. Smith, on the 12th April, 1849, conditionally, that it did not interfere with any farmers; Scheele Kobus, or Gousop, twelve miles along the river and six out, approved by Sir H. Smith, 15th August, 1850; and Jan Bloem from there TO THREE HOURS BEYOND THE MISSION STATION PNIEL, on the 13th

* Vide p. 56, Blue Book, "Further correspondence respecting the affairs of the Cape of Good Hope."—London, February 6, 1872.

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Feb., 1852. The pencil memorandum is the handwriting of, and initialed by, Mr. H. Green, British Resident. *This part, which has for a number of years been in the possession and occupation of our people, under titles issued by the British Government and that of the Orange Free State, is entirely cut off and taken away by the line described in the copy of your Excellency's proclamation as Waterboer's territory, by a line from RAMAH *via* DAVID'S GRAF TO PLATBERG."*

(a). By this sketch (the annexed Diagram E), and the documents referred to, the fact that the whole south bank of the Vaal, from Platberg to below Pniel, was never Waterboer's, but was disposed of to the Free State by its rightful and original native owners (most of whom acknowledged Cornelius Kok as their paramount chief), is placed beyond all shadow of doubt. Moreover, Sir H. Barkly and his colleagues in the robbery of the Free State have not yet attempted to question or reply to the production of these facts, and, in especial, *the sketch actually made by a former British Resident or Governor of the territory in question!*

A most admirable, logical, and irresistibly conclusive "protest," or statement of their case, as against Sir Henry Barkly and the British and Colonial Governments, was issued to the whole civilized world by the Volksraad of the Orange Free State upon the 19th of December, 1871, but is far too long for quotation.

It took Mr. Southey, the Colonial Secretary, *exactly one hundred and twenty days* (seven being deducted for time occupied in ordinary transmission of the protest from Bloemfontein to Cape Town by post) to reply to the Volksraad's protest! His reply is worthless. In the words of the Free State Government's exhaustive and elaborate subsequent refutation, "the memorandum of the Government of the Cape Colony commences with a summing-up, *according to their views and*

in their words, of the grounds and arguments mentioned in the protest of the Volksraad . . . *but it contains only a partial statement of those grounds and arguments.*" Instead of attempting to prove or establish the main question—Waterboer's claim to the lands seized from the Free State, and the right of the Colonial Government to annex those lands to the Colony—it deals mainly with the past and obsolete history of the country, as to what was or was not the territory made over to the Free State at the abandonment of the Sovereignty by the British Government. And although on this point Mr. Southey's quotations and arguments were singularly incorrect and fallacious, the Free State can afford even to admit them all (although the reply demolished them), for it is quite sufficient for their claim that the fact cannot be denied, namely, that by *Article 4* of the Convention of 1854 it was stipulated by H.B.M.'s Special Commissioner that such persons as had been living under the British rule, "*should be considered to be guaranteed in the possession of their estates by the New Orange River Government*;" and that this was done in the case of no fewer than thirty-three British land certificate farms over the boundary now claimed and seized for Waterboer, besides, also, in the case of many of the remainder of the 143 farms so scandalously and openly stolen.

Perhaps it did not really take Mr. Southey from the 26th of December, 1871, until the 25th of April, 1872, which latter is the date of his memorandum, to concoct so poor a production; perhaps, instead, we can make a shrewd guess that he only got it up as a Parliamentary dodge, in order to influence members, prejudice their minds against the Free State, and make

them favourable to annexation—the Bill to legalize which was just about to be discussed in the Cape Parliament.

But vain were all the dodges, the quibbles, and the frothy but unsubstantial eloquence of Mr. Southey and his colleagues! In vain did they struggle to make the Parliament believe that by its “resolutions” of the previous session it had pledged and committed itself to annexation! In vain did Mr. Southey outvie all his previous efforts in wilful misrepresentation of the case; and malign, even more venomously than usual, the Orange Free State! The House would not be humbugged and deluded; would not, in fact, hear of or consent to annexation upon any terms whatever.

One of the Cape Town newspapers, “Het Volksblad,” on the 2nd of April, 1872, thus expressed its views:—

“The apparent approval of the proceedings of the Colonial Executive is based entirely upon the *conditional approval* of the Cape Parliament to that policy, obtained from it in a hurry by a resolution cunningly devised to allay alarm, while forwarding the object of the annexationists, and even then passed only by a majority of one vote.”

Such seemed also to be the unanimous opinion of Parliament—strengthened, no doubt, by the feeling that Sir H. Barkly had far exceeded the conditional authority which had been given him, and had, in fact, simply tried to humbug the House—when, on the 5th of June, 1872, “The Colonial Secretary moved that the WEST GRIQUALAND ANNEXATION BILL be read a second time.”

The following hostile amendments were at once proposed:

"Mr. SOLOMON moved * as an amendment: 'That, pending the settlement of the disputes between the Government of Great Britain and the Government of the Orange Free State, on the subject of the boundaries of West Griqualand . . . and in the absence of all information of the number and position of its population . . . the House feels that it would be inexpedient to enter this session upon the consideration of any measure for the annexation of that territory to this Colony.' " . . .

But by far a more severe blow to the illegal and filibustering action already perpetrated by the executive members of the Government against the Free State, and the policy of duplicity with which they now sought to shirk, and to throw upon the Colonial Parliament both the odium and the responsibility, was the amendment next proposed by one of their usually staunchest supporters:—

"Mr. MERRIMAN moved as a further amendment, *That the Bill be read a second time on this day six months.*"

On the order of the day for the second reading of the Bill, Mr. Southey, the Colonial Secretary, opened the debate by one of the most grossly mendacious speeches it has ever been my lot to encounter. Every single matter of fact, every political or historical event, involved in the territorial dispute with the Free State, was misrepresented and perverted. For the honour of British officials it is to be hoped that such displays may by abnormal and exceptional occurrence prove the opposite nature of their character as a rule. Here is a sample of Mr. Southey's veracity:

"Waterboer himself knew† nothing whatever about that (the Vetberg)"

* *Vide* Parliamentary Report, "Cape Argus," and "Standard and Mail."—June 6th, 1872.

† See reports of Speech, "Cape Argus," "Standard and Mail."—June 8th, 1872.

line, and had never recognised it as a boundary between himself and the Free State, or as at all his boundary ! . . .

“ The Berlin Missionary Society had occupied the land there (at Pniel) before the time of Sir H. Smith’s proclamation *by permission of Waterboer !* ”

We need not nauseate ourselves with any further consideration of Mr. Southey’s unmitigated perversion of truth ; the prompt repudiation his statements met with from the representatives of the people being sufficient to prove my principal object—the unlawful and unauthorized nature of the annexation of the Free State diamond fields ordered by Sir H. Barkly’s proclamation of October 27th, 1871, and executed by his instructions.

Out of thirty speakers who took part in the debate on the motion for the second reading of the Annexation Bill, *twenty-six*, including all the most able and influential members in the House, spoke in opposition, and declared their determination to vote against it !

To the honour and justice of the Cape Colonists and their representatives, the able speeches of Mr. Merriman, Advocates Buchanan and De Villiers, Messrs. Knight, Prince, Watermeyer, Wright, Orpen, and Bowker, stand an imperishable record. The only *four* members who expressed an intention to vote for the Bill did so because they considered that the House was pledged to that course by the “ resolutions ” passed the previous session ; overlooking the fact that certain conditions therein had been violated by the Governor, and that, although they all deprecated any infringement upon Free State territory, such had actually occurred to a very great and serious extent ! The majority, however, very clearly expressed the

almost unanimous feeling of the House that "undue advantage had been taken of those 'resolutions' by the Government;" that injustice had already been done to the Free State; but that by rejecting the Bill the House could alone disclaim responsibility for that injustice, and avoid participation and complicity in its future persistence.

On the 7th of June, 1872, at the end of a petulant speech, replete, as usual, with the grossest misstatements, Mr. Southey, the Colonial Secretary, said: *

" 'What had urged the British Government to interfere . . . was, that up to the discovery of diamonds the Free State had been content with the Vetberg line . . . but after that the two Republics began to move. A mock (*sic*) conference was held at Nooitgedacht, from which Waterboer departed in disgust, and then the President of the Free State issued a proclamation (a) *seizing his ground north of the Vaal*. It was this movement (b), and this attempt to enclose all the British subjects there, that forced the Government to act. . . . With permission of the House he would withdraw the Bill.' The House agreed to the withdrawal of the Bill."

Like all Mr. Southey's arguments in this matter, the two reasons on which he attempts to justify the unwarrantable "seizure" of the diamond fields are utterly, and, it must be, wilfully false.

(a) We have already seen that from 1861, when the Free State bought the Campbell grounds, it has always claimed them; that, in 1863, it sent out a surveying commission for the purpose of defining those grounds, preparatory to taking possession; that in 1864 it yielded weakly to the claim set up for Waterboer by his *âme damnée*, David, and consented to arbitration; and that as a well-known and indisputable fact, Water-

* *Vide* Parliamentary Report, "Cape Argus."—June 13th, 1872.

boer never did occupy or possess those grounds formerly belonging to Cornelius Kok, and which alone were those claimed by the Free State. The cause of so much delay in taking possession of the Campbell lands is to be explained by the fact that after the failure to obtain arbitration in 1864 the Free State became involved in the wars with the Basutos, which occupied all the energy and attention of the Government. Immediately after the final settlement of those serious hostilities the Free State proceeded to maintain its rights to the Campbell lands; the meeting at Nooitgedacht being the result.

(b) We have also seen in these pages that there were *not any* British subjects, nor, indeed, any diamond fields, within the Campbell lands, the only territory (north of the Vaal) to which the Free State proclamation quoted by Mr. Southey referred.

The Cape Parliament having so positively rejected the Bill to annex the diamond fields, and having thereby repudiated all and every responsibility for the actual annexation which had already been unlawfully effected by the Governor without its consent, Sir H. Barkly retained the entire responsibility for his unauthorized act.

Extraordinary as it may seem—especially to those who are unacquainted with the dark ways and tortuous windings of British diplomacy at the present time—it is no less strange than true that, although by his last despatch on the subject (already quoted in this chapter), Earl Kimberley had pointed out to Sir H. Barkly that the “resolutions” juggled from the Cape Parliament, and on which he relied, “do not in themselves amount to a formal compliance with the condi-

tions laid down in my despatch of May 18" (quoted at the end of Chapter XIII.), he yet, upon receiving the Governor's information that by the proclamations of October 27th, *the annexation of the diamond fields had actually taken place without that "formal compliance,"* expressed the approval of the British Government!

In a despatch dated "Downing Street, December 8, 1871," Earl Kimberley thus stultifies his previous instructions and conditions:—

"... Considering all the circumstances * stated in your former despatches" (which we have seen were *wholly untrue*), "they (Her Majesty's Government) approve the step which you have taken, being convinced that you would not have acted in anticipation of provision being formally made by the Cape Parliament for the annexation of Waterboer's territory to the Colony, unless you had fully satisfied yourself that there were imperative reasons against further delay. I have therefore to convey to you Her Majesty's gracious approval and confirmation of this proclamation." . . .

Whatever those "imperative reasons" were, which Earl Kimberley deemed sufficient to counteract his own previous and explicit proviso and commands, the Cape Parliament (excepting only *four* members) entirely failed to discover them. Therefore Sir H. Barkly's "imperative reasons" were really nothing more than the illegal, unconstitutional, utterly false, and untenable grounds upon which he and his Executive Council carried out their designs by a hostile invasion of the Orange Free State, and the forcible seizure or annexation of its diamond fields!

Of course, those hypothetical premises, the aforesaid "imperative reasons," remain open to question. If it

* *Vide* p. 43, Blue Book, "Further correspondence, respecting the affairs of the Cape of Good Hope."—London, February 6th, 1872.

can be proved that they did not exist, or, existing, were fallacious, the "approval and confirmation" necessarily lose all moral force and value. If this work proves anything, it is that no such "imperative reasons" did really and justly exist. The rejection of the Annexation Bill by the Cape Parliament proves the same thing. But whether, for the sake of right and justice, and not being under the influence of fear of reprisals by a strong military power, Mr. Gladstone's Government will ever be just and honourable enough to retract an approval obtained from them by false representations, make restitution to the wronged State, and properly punish the defaulting Colonial Governor who has so egregiously erred and so criminally deceived them, who can foretell?

Moreover, the proclamations of Sir H. Barkly *annexed the diamond fields to the Cape Colony*, and Earl Kimberley's, or rather, the British Government's, "approval and confirmation" simply agreed to and endorsed *that act* as an accomplished fact; but as the Cape Parliament positively refused, disclaimed, and by right of its constitutional power disallowed any such annexation, and as, in fact, no such annexation has ever actually taken place, is it not perfectly certain that the proclamations, the acts perpetrated by virtue of them, and the "approval and confirmation" by the British Government, are one and all utterly illegal, null and void according to the principles of all known law, whether of the place, national, or international?

From the day of the seizure of the diamond fields by Sir H. Barkly to the present time (February, 1873), the jurisdiction and Government there established is both morally and legally that of bandits and

filibusters! Not by the vote, consent, request, or even permission of the people and inhabitants of the diamond fields has the authority and existence of the usurping interregnum been established: not by the Cape Parliament, by the British Parliament, nor, indeed, by any known or civilized Government, has the forcible usurpation of the rights of the Free State, and the establishment of Sir H. Barkly's interregnum, been sanctioned, recognized, or approved. Therefore, I maintain, no lawful rule or government can by any conceivable process of reasoning exist there. To whom, from the forcible usurpation, to this day, do the diamond fields belong? To whom do the inhabitants thereof (black and white, some 50,000 souls) render allegiance? To whom are Sir H. Barkly's nominees and emissaries, composing the usurping Government and administration, either answerable or responsible? Why, to no living soul, to no power, state, or government, except the self-elected Dictator and usurper, Sir Henry Barkly! Truly, this is a pretty state of things for civilized people, Englishmen, Europeans, and subjects of the Free State, to have to submit to towards the close of the nineteenth century!

That the above statements are absolutely and literally accurate is fully proved by the following fact: Being convinced that all hope of annexation to the Cape is impossible, both from the determined opposition of the Cape Parliament, and the ever increasing antipathy and dissatisfaction of the "digging" community either to annexation or the misrule of his shamelessly usurping Junta, Sir H. Barkly, doubtlessly becoming alarmed at the serious responsibility he had incurred, now seeks another course to shirk it, by trying to

induce the British Government to receive and proclaim the diamond fields a separate and distinct Crown Colony! * Of course, if they were already part and parcel of the Cape Colony by annexation, no such plan could either be proposed or possible. And so is it proved that the diamond fields (or Griqualand West, as Sir H. Barkly delights in terming them) are, and have been, since the month of October, 1871, a district or tract of country which has forcibly and illegally been seized and retained by a number of Colonial officials and armed police, who, by the act, have become guilty of what all civilized laws condemn as brigandage. They have established, and still maintain themselves, *vi et armis*, as a military despotism, a government of filibusters, wholly and solely appointed by, and acting under the personal will and authority, of their Chief, Sir H. Barkly. Thus "Griqualand West," or the diamond fields, constitutes a brigand state!

Since the days of the old buccaneers of the Spanish Main no such deed of piracy or brigandage has been committed by a British Governor: it would be necessary to go back to the acts of the notorious Morgan to find any parallel.

As matters now stand, it would be an easy thing for the British Government to retreat with honour and credit from the absurd, illegal, and unwittingly false position into which they have been deluded by Sir H. Barkly; *viz.*, by simply refusing to annex the

* This intelligence arrived by a late mail from the Cape, November, 1872. *Vide* "Diamond News," Dutoitspan, September 14th, 1872; "Friend of the Free State," September 26th, 1872; and the South African Press generally, subsequent to those dates.

diamond fields as a Crown Colony. This, of course, would entail the consequence of repudiating the Governor's pseudo annexation of the territory in question to the Cape; the dispersion of the brigand Junta at present in occupation; and the restitution of the plundered country to the Free State, with such fair and proper compensation to that State for the wrong and injury to which it has been so outrageously subjected. There are, indeed, but three courses open to Her Majesty's Government:—

1. To take over the acts and responsibilities of the banditti, and declare the territory seized by those gentry a new Colony of the Crown.

2. To recall Sir H. Barkly, disavow his proceedings, and restore the diamond fields to the rightful owners.

3. Or, by leaving the subject as it now stands, to admit either tacitly or distinctly the sole, independent, and sovereign rights of Sir H. Barkly as the king, president, or successful robber-chief in actual possession.

Of course, so far as principle is concerned, Sir H. Barkly has as much right to take unto himself a colony, a territory belonging to some one else, as ever England had to acquire one; but then it will at least become rather awkward if British Colonial Governors should receive a *carte blanche* to act like some of the free companions of the good old robber times, when he took who could, and those retained who were able.

Should the British Government pass over the opportunity to extricate themselves from the *imbroglio*, and proceed still further under the guidance of Sir H. Barkly, and commit the crime of annexing the

diamond fields as a Crown Colony, the Free State will then have an indisputable right to claim not only compensation for the loss and injury already sustained by the robbery, and the diversion of its revenue into the coffers of the Cape Government, but the further serious question of compensation to the full amount of the entire value of the land so deliberately plundered before even its right and title thereto has been scrutinized or investigated by a proper tribunal or court of arbitration.

The imminent danger of this scheme being accomplished may be gathered from the following extract from Sir H. Barkly's speech, during his recent visit to the diamond fields, at a tiffin given to him at the "New Rush," on the 12th September, 1872:—

"I am quite prepared * to admit now that there can be no union with the (Cape) Colony except by the free consent of the population. (Tremendous cheering.) I am quite prepared to state that to the Secretary of State when I next address him on the subject. (Cheering renewed.) Before I came here time had not permitted of my having any communication from Lord Kimberley concerning the withdrawal of the Diamond Fields Annexation Bill. I do not know whether Lord Kimberley will desire to have the Bill submitted to another Session of Parliament, *but I have no doubt that he will be prepared to leave the conduct of affairs at the fields under my charge,* LEAVING THE FIELDS AS A CROWN COLONY."

For the honour of England it is to be sincerely hoped that Her Majesty's Government will refuse assent to any such course, and in any case, even if willing to annex, that no move in that direction will be made until the rights and claims of the Orange

* *Vide* report of the speech, "Diamond News," Dutoitspan, September 14th, 1872.

Free State to the territory in question have first been submitted to and decided by such legal arbitration as is consonant with international law, and customary between independent States, regardless of their relative strength.

CHAPTER XV.

A REVIEW OF THE OFFICIAL CORRESPONDENCE BETWEEN THE BRITISH, CAPE, AND FREE STATE GOVERNMENTS RESPECTING THE ARBITRATION OFFERED TO THE LATTER IN THE MATTER OF ITS RIGHT TO THE CAMPBELL LANDS AND SOUTH ADAMANTIA.

MALA FIDES OF SIR H. BARKLY AND HIS LATE IRRESPONSIBLE GOVERNMENT.—MR. SOUTHEY'S AMBITION.—THE FREE STATE OFFERS TO SUBMIT ITS CLAIMS "TO THE DECISION OF ANY INDEPENDENT POWER."—REJECTION OF THOSE TERMS BY SIR H. BARKLY.—THE FREE STATE COMMANDO: SIR H. BARKLY'S MISREPRESENTATIONS.—RESOLUTIONS AND PROPOSITIONS OF THE FREE STATE VOLKSRAAD.—SIR H. BARKLY'S MISREPRESENTATIONS TO EARL KIMBERLEY, WHO REJECTS THE PROPOSED FOREIGN ARBITRATION.—COMMENTS THEREON.—MISSION OF MR. HAMELBERG, FREE STATE PLENIPOTENTIARY: WHO IS TREATED WITH INDIGNITY, AND REFUSED OFFICIAL RECEPTION BY THE BRITISH GOVERNMENT.—THE FREE STATE OFFERS TO SUBMIT ITS CLAIMS TO A COMMISSION OF ARBITRATORS WITH A FOREIGN UMPIRE.—MISSTATEMENTS, AND PERSISTENT EVASION OF ARBITRATION, BY SIR H. BARKLY.

Although arbitration is still the subject of correspondence, and seems apparently approaching some definite and effective termination, yet those who, like myself, have studied the whole question in all its bearings, and, from first to last, have closely observed the detestable policy of Sir H. Barkly and his isolated Executive Council, cannot fail to perceive that the

latter have really been doing all in their power to shirk, evade, and delay every arrangement by which arbitration could be effected—*until after the diamond fields have been annexed to Great Britain as a Crown Colony.*

Both annexure to the Cape and the rule of the brigand Junta, or interregnum, having resulted in a complete *fiasco*, the four or five individuals lately* composing the Government of the Cape sought to continue their personal and mercenary scheme, and at the same time obtain immunity for their criminal acts, as well as secure future advantages and emoluments for themselves, by inducing Great Britain to prostitute her honour and strength, and perpetuate the wrong done to the Free State, by taking over the diamond fields as a Crown Colony, and appointing as Lieut.-Governor thereof—Mr. R. SOUTHEY, the Colonial Secretary of the Cape of Good Hope!

Here we have the key and elucidation explanatory of the whole plot!

From first to last that official has supplied General Hay and Sir H. Barkly with the information, reasons, arguments, by which to steal the diamond fields, and screen; palliate, or cloak the deed; now Sir H. Barkly sends him as his deputy to rule and govern the plundered territory!

Just about the time diamonds were discovered, and Waterboer applied for British aid to steal the diamond fields, Her Majesty's Government sent strict orders to the Governor of the Cape to establish responsible

* Responsible government being since (December, 1872) established at the Cape, Sir. H. Barkly's former Executive Council has been dispersed.

government at that Colony, and as it was sure to be so established within a limited time (indeed, the Bill to create responsible, and terminate the hitherto irresponsible form of government passed the Cape Parliament in June, 1872), there can be but little doubt that from the first Mr. Southey and his colleagues have been very cleverly creating the diamond fields into a Crown Colony, in order to provide for themselves in the very probable event of their services not being retained or required by the Cape Parliament, when the first responsible ministry should come to be formed. If such be the case, Mr. Southey's diplomatic tact, his genius for political intrigue and *finesse*, must indeed be admirable! But we cannot say much for his principle.

As the Queen has just approved the appointment of Mr. R. Southey as a Companion of the order of St. Michael and St. George, it would imply that his nefarious participation in the robbery of the diamondiferous portion of the Orange Free State is deemed to be highly meritorious by Her Majesty's Government! Under these circumstances the probability is that the diamond fields will be proclaimed a Crown Colony, and Mr. R. Southey will attain the prize for which he has, doubtlessly, all along striven—the appointment as Lieutenant-Governor, in which post he has been temporarily installed by the Governor.

That the professed desire of Sir H. Barkly, the Colonial and British Governments, to have the rights and claims of the Free State to the land of which they have already robbed it submitted to a *fair* and *impartial* arbitration, such as would be according to the rule and practice of international law, is sincere, no one

who has read these pages can honestly believe; whilst the way in which the question has been treated, the quibbles by which it has been always delayed, the grossly unfair and illegal nature of the plans proposed, and the way in which the proposals of the Free State have been ever shirked and rejected, proves beyond all dispute the hypocrisy and pre-determined injustice with which it has been treated. I subjoin a few extracts from Sir H. Barkly's and Earl Kimberley's dictatory declarations to the Free State of the sort of arbitration they, in their towering arrogance, would permit.

"Her Majesty's Government had no desire whatever to prejudge the merits of the dispute between the Free State and the Griqua Chief. On the contrary, they have instructed me to renew and urgently press upon both parties the proposal for a reference of the *whole matter* to arbitration." (*Sir H. Barkly to President Brand, January 23rd, 1871.*)

On the face of it how fair and just this specious declaration seems! That the portion of South Adamantia which Sir H. Barkly so coolly recommends the Free State to submit to arbitration contained 143 Free State farms; had for a number of years (from 30 to 13) been part and parcel of that State (first under the Sovereignty, then its present Government), subject to its indisputable jurisdiction during all that time; and had *never* belonged to Waterboer; whilst 33 of those farms had been specially transferred to the Free State by British title-deeds at the abandonment of the Orange River Sovereignty in 1854; these are facts which very materially alter the character of the proposal, and which are, of course, ignored. President Brand's reply is quoted in Chapter XIII., in which he

offers "to refer the following questions *to the decision of any independent power*":

"1st. Whether, under the present circumstances, Her Majesty's Government can, consistently with the true intent and meaning and the spirit of Article 2 of the Convention" (quoted in Chapter III.) "accede to the request of Captain Waterboer" (to be received as a British subject, and the lands he *claimed*, including all the diamond fields, to be declared British); and,

"2ndly. To decide, as arbitrator, on the validity of the title of the Orange Free State Government to the Campbell lands; that is, the lands on the north of the Vaal River."—(*President Brand to Sir H. Barkly, March 4th, 1871.*)

To the above reasonable and legitimate proposition, Sir H. Barkly thus replies:

"I cannot but regard the communication" (quoted above, and repeated by the President in a despatch dated March 7th) "under acknowledgment as virtually putting an end to further negotiations for an amicable adjustment"!—(*Sir H. Barkly to President Brand, March 8th, 1871.*)

Sir H. Barkly expresses this opinion because the Free State would not ignore its own existence by submitting its 143 farms within the line claimed by Waterboer's *ipse dixit* to arbitration; because its Government refused to allow, in the meantime, the jurisdiction of the British magistrates (whom we have seen were illegally appointed by General Hay) to be exercised over the said territory; and because, as every independent State has an undoubted right to do, the Free State demanded foreign arbitration in preference to that of British officials who had already become parties to the case!

In dignified and statesmanlike language President Brand made answer:

"Our Government regrets that it cannot, consistently with its

duty, adopt the arrangements which have been entered into between your Excellency and the President of the South African Republic (a), as far as the lands to the south side of the Vaal River, included within the Vetberg line, and the line claimed from Ramah, *vid* David's Graf, to Platberg, are concerned, which contain one hundred and forty" (? 143) "farms, of which twenty-nine" (? 33) "are British land certificates, and over which our Courts have exercised jurisdiction, and which have been in possession of our people for a number of years; for we consider our title to that as clear, and beyond any doubt. And to consent to the appointment of a special magistrate by the British Government and by the Chief Waterboer would be an abandonment of our rights which we cannot make, *would confer on Waterboer a jurisdiction over that territory which he has never had or exercised*, and would give rise to endless complications and difficulties, which we are bound to prevent.

"And the Government notices issued by Mr. Campbell made it impossible for our Government to do otherwise than to maintain its rights to that part of the country." (These notices are quoted *verbatim* pp. 264—266, Chapter XII.—*President Brand to Sir H. Barkly, March 9th, 1871.*)

(a) The "arrangements" to which reference is made was the submission of the right to the land between the Vaal and Hart's rivers to arbitration by the claimants, Waterboer, the S.A. Republic, and certain Kafir tribes. Sir H. Barkly, as those who have observed his one-sided and unjust policy may imagine, carefully conceals the fact that, whereas the lands so submitted to arbitration by the South African Republic were not, and never had been, occupied by its subjects, the territory he required the Free State to deal with in that way was equally as much an integral part of itself as its capital city, Bloemfontein! He thus replies to the above quoted despatch:

"As your Honour has, from first to last, made no such proposition" ("for a prompt solution of the boundary question, either by arbitration or any other possible mode"), "but has confined your-

self to refusing to allow the claims of the Free State to be submitted to arbitration of any sort (a), this attempt to shift the responsibility for the result to the British Government and its agents . . . appears to me perfectly futile.”—(*Sir H. Barkly to President Brand, March 20th, 1871.*)

(a) Here is another most deliberate and inexcusable perversion of the truth! Have we not seen that President Brand had already frequently offered to submit the right of his country to the Campbell lands, as well as the question of British intervention, to the “*decision of any independent power*”? Sir H. Barkly of course ignores the fact that, although the Free State had paid the Chief, Adam Kok, in hard cash for the purchase of the Campbell lands, still, in order to meet him in an amicable spirit, its Government had, in response to his unfair demands, offered to put its right to arbitration!

Early in February, Mr. Campbell, the special magistrate illegally appointed to the diamond fields by General Hay, issued the aggressive notices referred to in President Brand’s despatch of March 9th, whereby he publicly declared his intention of invading Free State territory by virtue of Waterboer’s authority. Early in March the Government of the Orange Free State called out a commando of 1,000 men, with 4 guns, and moved that force to a position within a few miles of Pniel, in order to guard the frontier, prevent either the threatened invasion of “100 armed and mounted police . . . on the Pniel side of the river,” or the establishment of any authority in the name of Waterboer.

News of this action reached Sir H. Barkly on the same day he wrote the last of his arbitration dictums

—the mendacious assertion that the President had “refused arbitration of any sort.” Cunningly distorting this rightful, necessary, and legitimate application of the *posse comitatus* (or what answers to it in that State), Sir H. Barkly, in a second despatch to the President, dated March 20th, 1871, terms the movement one for “*the purpose of coercing British diggers !*” and “*an attempt to levy war upon the Queen of England !*”

Of course, the fact that the commando was called out to resist a threatened attack by Waterboer’s special magistrate and representative, appointed by that Chief’s commission over territory *claimed* by him, but actually occupied during many years by the Free State, is *not* mentioned !

In a despatch, dated Bloemfontein, March 23, 1871, President Brand thus replies to Sir H. Barkly’s distorted views :

“I have the honour to begin by stating that the Government and people of the Orange Free State, by the burgher force which it has been under the unpleasant necessity of sending to the vicinity of . . . Pniel, have not the remotest intention or idea of attempting to levy war upon Her Majesty the Queen of England, . . . and that this commando is only intended to protect our rights, maintain peace and order, and defend the territory transferred and made over by Her Majesty’s Government to the Government of the Orange Free State by Article I. of the Convention of the 23rd Feb., 1854” (see Chapter III.), “if Captain Waterboer should, in conformity with the Government notices mentioned in my letter of the 22nd of last month, attempt to assert sovereign authority and exercise jurisdiction over the 140” (143) “farms, including 29” (33) “British land certificates, referred to in my letter of the 9th instant.”

It need hardly be added that Sir H. Barkly persisted in his interpretation that the commando was an act of hostility against the Queen.

Influenced, no doubt, by the warlike tendency of Sir H. Barkly's communications, as is usual, the weakest went to the wall, and the Free State was driven to consent to arbitration concerning part of its undoubted territory.

On the 5th of April, 1871, the Free State Parliament, or Volksraad, adopted certain resolutions, of which the following are extracts :

"As His Excellency . . . has declared that a reference to arbitration is the only proposal which the British Government has empowered him to make, and that the injurious notices of the Special Magistrate, Mr. John Campbell,* could remain a dead letter or be withdrawn, *if any proposal whatever were made on the part of our Government to bring the question which has been raised to a speedy settlement*, and as the Volksraad is invariably desirous to show on every occasion that it desires nothing more fervently than to remain on the most friendly terms with the British Government, *as long as it does not thereby become unfaithful to its oath and duty, and the proper maintenance (behartiging) and protection of the interests committed to it, the Volksraad declares itself willing to accept the proposed arbitration, provided the conditions on which it shall be referred are in accordance with justice and equity.*

"As the matter in question has for several months engaged the general attention in South Africa, the Volksraad feels convinced, that everyone here has already formed an opinion for himself about it, and that it can therefore scarcely be expected that impartial and unprejudiced persons could be found here, who could be eligible arbitrators.

"The Volksraad maintains that it is clear that the lands claimed on behalf of Captain Waterboer have been for years in possession of the Orange Free State; that they were enregistered in our Public Records, and have been partly so enregistered by British functionaries at the time when these lands were under the British Government; that their inhabitants have constantly acknowledged our authority, have been subject to our jurisdiction, have enjoyed the

* *Vide* p. 167, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope."—London, 17th August, 1871.

rights of burghers of the Orange Free State, and performed their duties as such; that neither Captain Waterboer nor his subjects are in the occupation of the said grounds; that the diamond diggers, who are now there, can in law only be considered as being there by virtue of the tacit consent of our Government, and by virtue of the permission of the owners of the farms within the limits of which they are situate, *and that those lands are de facto still in possession of and under the jurisdiction of the Orange Free State*; according to these facts the Volksraad cannot see or admit the equity of a condition by virtue of which the Orange Free State would be deprived of the possession and jurisdiction of its sovereign rights over said lands pending a decision by arbitration, the result of which cannot, according to its conviction, be otherwise than a full recognition of the justice of that possession and those sovereign rights.

"The Volksraad requests and empowers the State President to communicate the above to His Excellency the High Commissioner, and in pursuance thereof *to propose to His Excellency that the Head of an Independent Foreign power be requested to give the desired decision as arbitrator*, for which the Volksraad has the honour to propose to the choice of the British Government His Majesty the Emperor of Germany, His Majesty the King of the Netherlands, or the President of the United States of America, and that, pending said decision, the jurisdiction of the Orange Free State over the disputed grounds *be maintained and continued to be exercised, as has hitherto been the case*.

"The State President is also requested and empowered to communicate to His Excellency that the Armed Burgher Force which has been sent out will be recalled as soon as His Excellency declares his willingness to accept the said arbitration on the before-mentioned terms, with the understanding that on the other hand on behalf of His Excellency the before-mentioned notices of the Special Magistrate, Mr. John Campbell, will be withdrawn with respect to the grounds situated to the south of the Vaal River, within the Vetberg line."—Carried.

"I have, &c.,

"J. H. BRAND."

In reply to this proposition, Sir H. Barkly made it a condition that—

"the armed force sent to coerce Her Majesty's subjects into a recognition of the claims of the Orange Free State"—

should first be withdrawn, after which he would be “prepared to discuss these propositions, with an earnest desire to aid in bringing about some just and reasonable arrangement for a reference of all matters in dispute.”

As usual, in his report of these circumstances to Earl Kimberley, dated “Cape Town, April 17, 1871,” Sir H. Barkly entirely misrepresented them.

Referring to the commando,* he states that he had received President Brand’s letter—

“disavowing all intention of resorting to offensive warfare; this disclaimer being accompanied, as afterwards appeared, by the issue of instructions to the burghers, *whose advanced guard had already reached Pniel*, to fall back about three miles, and encamp until further orders.”

(This statement is simply false. *No advanced guard ever reached Pniel*. The commando had already encamped at a spot about three miles off. The only members of the force who ever came to Pniel arrived unarmed, as private individuals, to make purchases, and to see the diamond diggings. I was present, saw those visitors, and can vouch for the peaceable and private nature of their arrival.)

“Meanwhile the diggers of British origin, both *at Pniel* and Cawood’s Hope, on learning the approach of the commando, applied to the Special Magistrate for protection, or at any rate for a supply of arms and ammunition, wherewith to defend themselves.”

(So far as “Pniel” is concerned, this statement is entirely false, like the former. Pniel was then under the Government of Mr. O. J. Truter, *the Free State*

* *Vide* p. 155, Blue Book, “Correspondence respecting the affairs of the Cape of Good Hope.”—London, 17th August, 1871.

Commissioner, whose rule was most popular and satisfactory. I deny that it was ever publicly known that any of the inhabitants applied to the Special Magistrate for either arms or protection. I do not believe even a secret application of any such nature was made. At all events, I am quite certain no such thing was ever known at Pniel; if it had been, as I enjoyed the honour of a personal acquaintance with Mr. Truter, I must have heard of it; moreover, I am sure that any such attempt to create a disturbance would have been promptly suppressed by the Free State police, under their efficient and energetic Inspector, Mr. J. Gerald Donovan, whose efforts would have been readily supported by almost every respectable inhabitant or digger in the place. With regard to Cawood's Hope, the diggers there had been repeatedly instigated and encouraged by Mr. Campbell to resist Free State rule, but out of several thousands *only 172 responded to his intriguing*, and applied for British protection!)*

Sir. H. Barkly continued his false report to Earl Kimberley:—

"Nothing daunted, however, *those* at Cawood's Hope formed themselves into a Mutual Protection Society, to defend the camp against any act of aggression of the Free State Government!

"*The people* of Klip Drift and Hebron, though not themselves threatened, decided on marching to the aid of their fellow-countrymen, if attacked."

(Of course, it is plain, by the use of the terms "*those* at Cawood's Hope," and "*the people* of Klip Drift and Hebron," that Sir H. Barkly implied that at least the

* *Vide* Mr. Campbell's letter, with enclosed petition, to Sir H. Barkly, p. 166, Blue Book, "Correspondence respecting the affairs of the Cape of Good Hope."—London, 17th August, 1871.

majority of the people at all three places had adopted a course in antagonism to the Free State; whereas, out of some 10,000 diggers, 172 constituted the Cawood's Hope party, and barely 100 the number of the *nominal* volunteers at the other two places.)

Sir H. Barkly, referring to the arbitration proposed on the 5th of April by the Free State Volksraad, and the stipulation that, pending arbitration, its Government should *retain possession of and jurisdiction over the territory, containing 143 of its farms, which it had enjoyed since 1854*, continues:

"Under present circumstances, the acceptance of the concluding stipulation would be wholly out of the question, even if Waterboer could be brought to assent to it (!), for *the entire population* of the diamond fields, which was never disposed to pay much respect to the Free State, has been so thoroughly alienated by its late futile threats of coercion, *that they would refuse, at all hazards, to be governed by it, and if the British Government withdrew its Special Magistrate, and withheld protection, a war of races would, I am afraid, begin!*"

To expose such wholesale perversions of truth as the above, in moderate, or even decent, language is a difficult task indeed. Why, at the time he wrote such unmitigated falsehood and absurdity (April 17th, 1871), Sir H. Barkly must have been as well aware as I, or any of the people in the country, *that the Government of the Free State was then in the actual exercise of uncontrolled authority and jurisdiction over the camps and diggings of Pniel, Robinson's Kopje, and adjacent places, Du Toit's Pan, Bultfontein and Alexandersfontein, De Beer's and Jagersfontein—representing a population of at least 7,000 to 8,000 whites!* Moreover, it is notorious throughout South Africa; the whole press has for months teemed with it; it is prominently expressed in many of the

speeches delivered in the Cape Parliament on the debates resulting in the withdrawal of the Bill to annex the fields, that the usurping interregnum or brigand Junta, established by force a few weeks after the proclamation of the 27th October, 1871, has never enjoyed the popularity, has never been able to satisfy the digging community, or preserve peace and order so well as the Free State Government it ousted.

No wonder that after the gross misrepresentations of which he was the recipient, Earl Kimberley, in replying to Sir H. Barkly by a despatch dated "Downing Street, June 3, 1871," declared that Her Majesty's Government "*must therefore decline to assent to the terms of arbitration proposed by the Volksraad,*" though it may not be possible to discover upon what law, right, or international custom such refusal is based.

Subsequent to the withdrawal of the commando by the Free State Government, Sir H. Barkly, in a despatch dated "Cape Town, May 13, 1871," replied to the arbitration proposed on the 5th of April, by the Free State Volksraad—offering to refer the whole question of territorial boundary and dispute to the arbitration of "the Head of an Independent Foreign Power"—to this effect:

"I have already, however, written home for instructions on the subject, and do not apprehend that any insuperable objection will be found to exist to the proposal."

In reply to the "instructions" solicited by Sir H. Barkly, in a despatch dated "Downing Street, June 3, 1871," Earl Kimberley states:

"I attach so much value to your judgment that I am reluctant to differ from you on this point, but it seems to me that to admit the

action of Foreign Powers in these South African questions *might lead to very serious embarrassments*, and I cannot therefore authorize you to assent to foreign arbitration on any of the points at issue!"

This is the first occasion on which the British Government took the initiative in wronging the Free State in the matter of the robbery of the diamond fields. Hitherto it is but fair to deem them blameless, by reason of the deception to which they were subjected by the Colonial authorities. The Orange Free State having been fully recognized as a free and independent state by the British Government in 1854, and since then by France, the United States of America, Spain, Italy, Austria, the Netherlands, Prussia, Russia, and the North German Confederation (copies of which official recognitions I have by my hand at the moment of writing), by what known right does Earl Kimberley refuse to the Free State a privilege possessed by every people and power a party to and bound by the ties, customs, and regulations of international law? The Orange Free State has equally as much right to demand foreign arbitration in its differences with Great Britain as have the United States, Portugal, Brazil, or any nation with which disputes have ever been so adjusted.

There is but one possible explanation for the unfair, illegal, and ungenerous policy pursued by Her Majesty's Government in this case: Earl Kimberley and his colleagues must be troubled with a conviction that wrong has already been done to the Free State by themselves and their representatives at the Cape, and therefore, dreading the result of correct and impartial arbitration, and deeming the Free State too weak to enforce or obtain proper treatment, they act towards

it with such flagrant injustice. Is it conduct worthy of the Government of this great and powerful nation? Is it creditable to Englishmen, or consonant with their assumed characteristic of "fair-play"? If such be not a true explanation of the motives actuating the present British Government, how came they to suppose that the course of right and justice could "lead to very serious embarrassments"?

But even before Earl Kimberley's refusal of foreign arbitration reached him, Sir H. Barkly retracted his formerly expressed assent to that course. As in his reply to the Volksraad's proposition of April the 5th, he had reiterated all Waterboer's unsupported assertions and unfounded claims, and had moreover assumed that the questions and matters in dispute were between that petty Chief and the Free State; the Volksraad, by a series of further resolutions, repeated its proposals of April 5th, and pointed out that the dispute was between their Government and that of the Colony, not Waterboer.—(*President Brand to Sir H. Barkly, June 6th, 1871.*)

In his reply to the above, Sir H. Barkly presumes to state:

"Finding, therefore, that all attempts to arrive at a fair (?) settlement of the question by means of arbitration have so far failed . . . I am reluctantly forced to the conclusion that the proposals now made by the Volksraad can lead to no practical result; and that it only remains for Her Majesty's Government to determine what further measures should be adopted for the support of her ally, and for securing the rights and privileges of her subjects!"—(*Sir H. Barkly to President Brand, June 22, 1871.*)

In this despatch the Governor gave four reasons for arriving at the above arrogant and false conclusion.

1. The "length of time" that the proposed arbitra-

tion would occupy. 2. The fact "that while the discussion progresses the lands in dispute are being deprived of their chief value by having the diamonds extracted therefrom under licence and authority of your Honour's Government." 3. "That pending the decision of the arbitrator, the Government of the Orange Free State shall have exclusive jurisdiction over so much of the country in dispute as lies on the left bank of the Vaal River." 4. That the Volksraad consider the dispute as "between the British Government and that of the Free State."

Of course, Sir H. Barkly carefully, as usual, ignores the fact that the Free State was then in possession of, and exercising exclusive jurisdiction over, South Adamantia, the territory in question, as it had done for a period varying from thirteen to twenty years—that foreign arbitration is customary between independent States, regardless of relative strength and "length of time," and is in accordance with international law—that the Free State had a perfect right to extract the "chief value" from lands so long its own—that, as he was awaiting "instructions" from Earl Kimberley, there could be no question as to the dispute being between the British and Free State Governments!

The truth was, that any subterfuge was seized upon to shirk arbitration. The Cape Government only required that "*chief value*," those precious "*diamonds*," the fat offices and magnified revenue of the diamond fields for themselves.

Upon learning the nature of Earl Kimberley's despatch to the Governor of the 3rd of June, declining foreign arbitration, the Government of the Orange Free State at once selected one of its most

distinguished citizens, Mr. H. A. L. Hamelberg, member of the Volksraad, and commissioned him to proceed to England, in order, as Representative and Plenipotentiary of the Orange Free State, to lay their case before Her Majesty's Government.

In the meanwhile President Brand made another effort to obtain arbitration, by the following proposal, viz.,

"The appointment of three commissioners, to be selected by your Excellency, and three to be chosen by the Government of the Orange Free State, to take evidence," etc.; "and in case they could not agree, a reference of all the points at issue between the two Governments to the final decision of any of the arbitrators proposed by the Volksraad."—(*President Brand to Sir H. Barkly, October 3, 1871.*)

In his reply to this fair but submissive proposal, the Governor agrees to a Commission, "PROVIDED ALL IDEA OF SUBSEQUENT REFERENCE TO FOREIGN ARBITRATION BE ABANDONED"!—thus following Earl Kimberley's instructions, and again thwarting all prospect of arbitration. The despatch bears date October 23rd, 1871; *but only four days later* Sir H. Barkly proceeded, as we have seen in Chapter XIV., to declare and proclaim the territory in dispute as British territory annexed to the Cape!

In the month of August, Mr. Hamelberg arrived in London, and at once

"addressed a letter to . . . Earl Granville, and requested his Lordship to grant (him) an interview, in order to present (his) credentials, and state . . . the objects of (his) mission."—(*Mr. Hamelberg to Earl Kimberley, London, October 3, 1871.*)

Mr. Hamelberg's letter to Earl Granville remained unanswered for four weeks! A reply then came

"to the effect that such communications as (he might) have to

address to Her Majesty's Government should be made through Her Majesty's Secretary of State for the Colonies"! (*Idem*).

Here follows the reply of "Her Majesty's Secretary of State for the Colonies":

"Lord Kimberley desires me to inform you, in reply, THAT HE CANNOT RECEIVE YOU IN ANY DIPLOMATIC CHARACTER, EITHER AS PLENIPOTENTIARY OR AGENT, but that if you wish to see him upon the distinct understanding that his Lordship does not, by receiving you, recognize you in any diplomatic character, his Lordship will be ready to appoint one o'clock on Saturday, the 21st instant, for an interview"!—(*Robert G. W. Herbert to H. A. L. Hamelberg, Esq., October 7, 1871.*)

According to the instructions of the British Government, conveyed in a despatch from the Duke of Newcastle to Sir George Clerk, dated "Downing Street, November 14th, 1853," the Convention entered into with the Orange Free State in 1854 was to possess* "the binding effect of a treaty between *independent powers*."

In 1868 a deputation from the Free State concerning the Basuto question was received in its official capacity by both Lord Stanley and the Duke of Buckingham (the then Foreign and Colonial Secretaries of State). From 1854 the Free State has always been fully recognized as an independent power by successive British Governments; its right to diplomatic representation by Consuls and Plenipotentiaries has never before been questioned.

The United States, France, Holland, Italy, Spain, Austria, Prussia, and Russia, have some received, and the rest agreed to receive its Consular Agents and Ambassadors.

But, in 1871, the Members of Mr. Gladstone's Cabinet, by refusing to receive Mr. Hamelberg "in any

**Vide* p. 88, Blue Book, No. 3, "Orange River Correspondence," 1851-54.

diplomatic character," most grossly insulted the Free State in addition to having injured it. Of course, if Her Majesty's Ministers choose to refuse a reception to any foreign representative, they are at liberty to do so; there is no law to make them act with honour and courtesy, according to the principles of right and justice, in consonance with their duty, with international law, and with the terms of treaties. But would they have dared to treat the Special Plenipotentiary of any powerful military state with such indignity? And, if not, upon what possible grounds can their refusal to receive a weaker nation's Ambassador be justified?

Mr. Hamelberg had as good a right to official intercourse with the Secretary of State for Foreign Affairs as the Prussian Ambassador; but, in order to evade a disagreeable subject, the very probable proof that Her Majesty's Government and her representatives at the Cape had wronged the Free State, as well as for the purpose of stifling its complaints, and avoiding foreign arbitration, a most mean and dishonourable course was adopted.

Earl Granville refused to see Mr. Hamelberg, and referred him to Earl Kimberley; Earl Kimberley refused to receive him officially, and referred him back to the Governor of the Cape—as if, indeed, the Orange Free State had been a British colony or a province of the Cape dependency, instead of a free and independent power, possessing the undoubted right of direct official communication with Her Majesty's Government! Of course this bandying about of the Free State Plenipotentiary from one to another, the breaking of official and diplomatic relations, and the

final relegation of him to the Colonial Governor—the very official of whose unlawful and aggressive acts he came to complain—was not only tantamount to a declaration of war, but plainly shows how futile have been the efforts of the Free State to obtain either justice or a fair and impartial arbitration.

In a despatch to Sir H. Barkly, dated “Downing Street, November 2, 1871,” describing his unofficial interview with Mr. Hamelberg, Earl Kimberley assumes as fact all the false statements of the Governor, which have been already exposed in these pages. He states:—

“I observed that* when . . . on the discovery of the diamond fields, a large population of diggers established itself in the immediate vicinity of the Colony, it was obvious that there was danger of serious disorders arising on our frontier, unless some steps were taken to provide a *regular government in the territory*—and we had, as he knew, authorized you to accept the proffered allegiance of the Chief, Waterboer, UPON CERTAIN CONDITIONS.”

That a “regular Government” was exercised by the Free State over the territory referred to, a better and more popular Government, moreover, than that of the brigand Junta which replaced it; and that those “CERTAIN CONDITIONS” which could alone have made the latter even in the eyes of one party to the dispute legal, according to British law, were never observed, but, on the contrary, were deliberately violated by Sir H. Barkly, Earl Kimberley does not state.

Either he must be grossly deceived, or readily deceives himself. At all events his reasons and

* *Vide* p. 44, Blue Book, “Further correspondence respecting the affairs of the Cape of Good Hope.” London, 6th February, 1872.

premises are, as these pages have shown, utterly fallacious.

Referring to his rejection of foreign arbitration, Earl Kimberley states:—

“It was, I thought, for the interests both of the Free State and the Colony that no Foreign State should be called in, and that these matters, *which were really quite of a domestic character*, and which concern no one outside South Africa, *should be settled amicably amongst ourselves*” !

Is this a “goak,” or are we to “please read ironical,” as Artemus Ward would have said ?

If Earl Kimberley deems the forcible invasion and seizure of Free State territory a matter of “really quite a domestic character,” and the policy which we have shown that he and the Cape Government pursued towards the Free State as tending to settle the difficulty “amicably amongst ourselves,” what an extraordinary imagination must the noble lord possess ! It is quite certain that the Government and people of that State think very differently—a sentiment in which they are joined by the great majority of Englishmen and other Europeans in South Africa.

In response to Mr. Hamelberg’s representation, “that it was essential the umpire should be entirely independent of either party,” Earl Kimberley states :

“I replied that I must adhere to the refusal to agree to the reference of the dispute to a foreign power. . . . At the same time, if the Free State were willing, without further delay, to refer to two Commissioners . . . the question of boundary alone, *it might be open for consideration whether some impartial person unconnected with South Africa might not be appointed as umpire.*”

And this unofficial, hypothetical proposition was all that Mr. Hamelberg’s mission obtained !

In his speech on the opening of the session extraordinary of the Volksraad on the 4th December, 1871, President Brand, referring to the false arguments which had been applied against the Free State in the diamond fields dispute by the British and Colonial Governments, expressed the hope that—

“When these and other erroneous impressions, of which we are yet unaware, shall have been put in the proper light by our representative to Her Majesty’s Government, I fully expect that we shall be reinstated in the enjoyment of our violated right; and that, although this young State, with its population limited to thousands, cannot possibly cope in armed resistance with large and powerful England, with its population of millions, still the *sense of justice and equity* entertained by the Government and people of Great Britain will lead to the restitution of our infringed rights.”

How lamentably this hope failed, so far as the British Government was concerned, we have just seen. Neither President Brand nor the Free State Volksraad and Government can have anticipated the injustice and indignity with which our present ministry would treat them in the person of their Plenipotentiary. I leave to my English readers the humiliating reflection as to the apparent contrast but moral similitude between that style of policy and the late conduct of Her Majesty’s Government in the Alabama and San Juan boundary arbitrations. To cringe and submit to the strong, but to bully and wrong the *very* weak, seems now the *mot d’ordre* of our foreign policy.

I cannot terminate the foregoing review of the arbitration question up to the period of the mean and contemptible insult to which the Free State Plenipotentiary was subjected by Her Majesty’s Government, without quoting from President Brand’s most admirable, logical, and statesmanlike exposition of the case in his

speech on the opening of the Volksraad on the 4th December, 1871, the following extract:

"Inasmuch as it is an acknowledged principle of international law that all independent natives—be their relative power or resources what they may—must be treated on terms of equality when it is sought to decide questions arising between them *on the principles of justice and equity, and not of arbitrary power and violence*, I have therefore failed to perceive any reason why, in this question which has been raised by the Government of Her Britannic Majesty and the Cape Colony against the Government of the Orange Free State, any deviation should take place from the established rule" (foreign arbitration), "and why the final umpirage thereof be submitted to the subjects and functionaries of the British Government, which is a party thereto."

The correspondence which has taken place between the Cape and Free State Governments on the subject of arbitration, subsequent to Earl Kimberley's hypothetical proposition to Mr. Hamelberg, has not yet (February, 1873) led to any practical result.

In a despatch, dated "Bloemfontein, 8th February, 1872," President Brand requested to know whether Sir H. Barkly was—

"willing to refer the question at present existing between our Governments, relative to the lands recently proclaimed by your Excellency, to such arbitration?"

The Governor, in a reply, dated "Capetown, 2nd March, 1872," evaded the question, and put off arbitration by the following quibble:

"The inquiries . . . are accompanied by no intimation of the concurrence of the Free State Government in the mode of arbitration described!"

Sir H. Barkly also refers to his views expressed in a

former letter as being still the terms on which alone he would consent to any arrangement—

“ Provided all idea of subsequent reference to Foreign Arbitration be abandoned.”

In conclusion, he states that:—

“It will be essential the Government of the Orange Free State . . . should make . . . a precise and complete statement . . . of the specific grounds upon which that Government claims territory within the limits of British Griqualand !”

Considering that, by an act of brigandage (and I challenge contradiction), in direct violation of the special “conditions” which alone would have made the act legal according to the laws of *one* only of the two parties to the dispute, Sir H. Barkly had annexed the diamond fields, and proclaimed them part of “British Griqualand,” and, therefore, that no such State legally existed, the supreme insolence and arrogance of this assertion is indeed remarkable! Moreover, it is Sir H. Barkly, Waterboer, and Co. who have *set up “claims”* to part of the Free State!

In a despatch, dated 25th March, 1872, President Brand again proposed arbitration in the following words;—

“I shall be prepared, upon receiving your Excellency’s concurrence in my proposal, to recommend to the Volksraad . . . to refer the question . . . to one or more Commissioners to be chosen by your Excellency, and a like number by this Government, as proposed in my letter of the 3rd October last; and, in case that they could not agree, to the final award of some distinguished person of ability residing in Europe, not being a British subject, or connected with the Orange Free State, to be named by the Dutch Ambassador in London.”

But in his reply, dated “Cape Town, 16th April,

1872," Sir H. Barkly, while professing his willingness "to assume the responsibility of concurrence in such a proposal . . on hearing from your Honour that the Volksraad consents," really shirks and prevents it; first, by objecting to the choice of the "Dutch Ambassador in London" as the delegate to choose the final umpire; secondly, by the insertion of an impossible condition, viz., "It would of course be essential *that a formal waiver of all claims under that Convention*" (of Feb. 23rd, 1854—see Chapter III.) "should be among the resolutions adopted!"

As it was upon that very Convention that the political existence of the Orange Free State as an independent power was originally based; and as it still constitutes its treaty with, and recognition by, Great Britain, any such "formal waiver" was obviously impossible, and would, indeed, have been an act of political suicide.

In a despatch, dated "Bloemfontein, 31st May, 1872," President Brand informs the Governor that "the Volksraad" had given him the necessary "consent." And he thus removed the cavilling objection referred to above:

"Should your Excellency accept this offer, and prefer that the Super-Arbitrator be chosen by the American, German, French, or Russian Ambassador in London, instead of the Dutch Ambassador, our Government will be ready and willing to meet your Excellency on that point. . . . As soon as we have been able to come to an agreement on these two points, a deed of submission can be drawn up for your Excellency's and my signature."

Naturally enough, with regard to the required "formal waiver," President Brand states:

"But the Government of the Orange Free State cannot under any

circumstances consent to a formal waiver by them of all claims under the Convention of the 23rd February, 1854."

And he then points out the serious and unfair concession which had already been extorted from them by the aggressive and arrogant conduct of the British and Colonial Governments :

"They have indeed (as will appear from my former letters) expressed their willingness *to except from arbitration the point as to the true meaning and intent of Art. 2 of the Convention, and whether the acceptance of Captain Waterboer and his people as British subjects was or was not a breach of the Convention*, as it appeared that Her Majesty's Government declined to refer that point to arbitration, but they nevertheless feel bound to adhere to their opinion on that point and their protest against it."

In his reply, Sir H. Barkly again delays any practical issue by the following misinterpretation and objections :

"1st. I understand you now . . . to offer to leave *Lord Kimberley* to choose, from among the American, German, French, or Russian Ambassadors, the authority by whom such Super-Arbitrator is to be named."—(*Sir H. Barkly to President Brand, 21st June, 1872.*)

(This is incorrect: President Brand, in his despatch of 31st May, quoted above, never mentioned "*Lord Kimberley*" in such connection. He submitted the choice to *Sir H. Barkly*, and required *him* to select one or other of the ambassadors.)

"2nd. It must be obvious . . . that the principles of equity and justice quite as conclusively demand the exclusion of Dutch as of British subjects from the post of Super-Arbitrator."—(*Idem.*)

(This was a childish objection, and can have had no other object than delay. And although, "with a view of promoting an amicable settlement," Presi-

dent Brand, in reply, allowed the objection, and agreed to its terms, he was clearly right in stating that his Government "cannot agree that in a question between your Excellency's and our Governments, subjects of His Majesty the King of the Netherlands come within that principle"—"that questions between two Governments should not be referred to the final award of a subject or functionary of either.")

"3rd. . . , I shall be content not to insist on a 'formal waiver of claims under the Convention of 1854' . . . upon the insertion in the Deed of Submission of an assurance that, whatever the result of the arbitration may be, the Government of the Orange Free State engages not to assert at any future period, on any plea whatsoever, a claim to the same or any other lands within the area claimed by Captain Waterboer."—(*Idem*,)

The unreasonable nature of this latter objection is concisely illustrated in President Brand's reply, dated July 10, 1872 :

"The Deed of Submission will, of course, contain the usual clause that the award will be final, and that our respective Governments mutually bind themselves to abide by, perform, and obey the award. As I hope that we are now likely to come to an agreement . . . I hope that your Excellency will not insist upon the insertion . . . of an 'assurance,' &c.; for if it means that the award is to be final and binding, then provision is made by the insertion of the usual clause abovementioned; and if it means anything else, then the Government of the Orange Free State must first ascertain from your Excellency the intention, force, and *meaning* of that clause, or decline to insert such a clause unless a similar assurance be inserted, binding your Excellency's Government in a like manner, and to the same effect."

The second objection raised by the Governor was removed by the Free State Government consenting to exclude Dutch subjects from the post of Super-Arbitrator.

The first misrepresentation was rectified by the sentence, "I shall therefore be prepared to accept the nomination by your Excellency of any one of the four ambassadors named."

In a most contradictory despatch, dated July 30, 1872, Sir H. Barkly replies, and commences by the declaration :

"Your Honour's letter of the 10th instant . . . seems to remove the only differences which remained between us in regard to the constitution of the tribunal for arbitrating."

If so, why, immediately afterwards, did Sir H. Barkly raise a fresh and absurd objection, involving a further delay of at least another month or two, by the following proposition ?

"And perhaps it would be well to extend the list open to selection by including the Austrian and Italian Ambassadors, or the President of the Helvetic Confederation."

Very pertinent were the reflections indulged in upon this prevaricating, obstructive production by the *Friend of the Free State* (a paper of impartiality too well known throughout South Africa to need my testimony) in its issue of August 15th, 1872 :—

"It seems somewhat curious that his Excellency, after . . . setting forth that the President's last 'seems to remove the only differences,' etc. . . . should in the following and concluding clauses apparently seek to raise fresh difficulties, and to give further cause, or at least, reasonable excuse for delay . . . What need, for instance, can there be to suggest, in addition to the four already named, the nomination of two other Ambassadors . . . and the (Swiss) President? . . . Should the . . . four . . . decline to act . . . is it probable that either of the other three will? . . . It appears to ordinary . . . individuals like ourselves a work of supererogation

this suggested addition. . . . If the four see reason to decline, it is only natural to suppose that seven would do the same."

The following observation is extremely *apropos*, and exactly illustrates the hollowness, hypocrisy, and the insincerity of Sir H. Barkly's hypercritical reasoning and cavilling about the Ambassadors:

"If the right men only are found to form the Commission of six, surely no Super-Arbiter will be required. The questions involved cannot be of so difficult a nature that six men at all competent, coming honestly to the work with the least desire to do justice, would not come to a right decision in the matter without any further reference whatever."

But a far more positive example of Sir H. Barkly's scandalous tergiversation is to be found in his speech proroguing the Cape Parliament on the 31st of July, 1872, *only one day subsequent to the date of the despatch last reviewed!* Therein he declares:—

"I am happy to state that the constitution of the tribunal which is to arbitrate as to these disputes HAS BEEN SETTLED between his Honour President Brand and myself."

And this in face of the fact that *only on the previous day he had written making fresh plans and proposals for the "constitution of the tribunal," and to which President Brand's assent (shortly refused) was first necessary before that subject could be "settled"!*

This deliberate misstatement is still further established, proved beyond all question, in President Brand's reply to the despatch of July 30th, dated 16th August, 1872:

"After stating that my letter of the 10th ultimo seemed to remove the only differences in regard to the constitution of the tribunal . . . *your Excellency raises some further difficulties as to the Ambassador who is to choose the Super-Arbiter!* . . .

"I am still willing to agree to any of the four Ambassadors selected by your Excellency . . .

"As soon as I receive your Excellency's assent to this proposal, I can have the Deed of Submission drawn up . . .

"To the proposition that power should be reserved . . . that H.B. Majesty's Sec. of State for the Colonies shall fill up the place of the Ambassador declining, I regret that I cannot give the assent of our Government, for that would be tantamount to leaving the choice of the Super-Arbitrator to one of the contending parties . . .

" . . . As we unfortunately have not yet quite arrived at an agreement, on the most important point, viz., the selection of the Super-Arbitrator, it would . . . delay the . . . settlement . . . if a Deed of Submission were drawn up before we have agreed upon all the essential points."

From the above it is evident Sir H. Barkly wilfully deceived the Cape Parliament, and that, in reality, instead of striving to arrange the difficulty by arbitration, he was availing himself of any and every subterfuge to gain time.

Those who have followed this Chapter so far may perhaps agree that the Cape Government never desired arbitration, and did its best to prevent it. Sir H. Barkly had two objects to gain by delay: 1. The revenue being then illegally derived from the diamond fields by the brigand Junta he had established to do exactly what he had objected to, in his despatch dated June 22nd, 1871, upon the part of the Free State, viz., "that while the discussion progresses the lands in dispute are being deprived of their *chief value* by having the diamonds extracted therefrom under license and authority of your Honour's Government"! (So he, being the strongest, seized those lands, did, and desired to continue doing, exactly that which he declared the Free State ought not to do!) 2. In order to screen himself from the responsibility for his filibustering

seizure of the diamond fields, the repudiation of the same by his Parliament, and the violation of all the conditions upon which we have seen he was alone ever authorized to annex, it was, and is, absolutely necessary for his own interests that arbitration should be delayed until after Her Majesty's Government shall see fit to relieve him of all responsibility by declaring his unwarranted seizure a Crown Colony!

The Cape Parliament having been prorogued, and the political aspect of the diamond fields being extremely dark and unfavourable—the authority of Sir H. Barkly's Junta being utterly disrespected, whilst riot, and mob, or lynch law, seemed to have become the rule—the Governor set off on a second visit to his dominions in the month of August, no doubt for the express purpose of propitiating the diggers, and inducing popular consent, or at least quiescence, to his last scheme—the plan to convert the diamond fields into a Crown Colony.

In the meanwhile a great national calamity befel the people of the Orange Free State. Their able and beloved President, just at this most critical period of their history, became stricken with a sudden and serious illness, by which he was utterly incapacitated from duty—it is feared, for ever.

Under these circumstances, upon his arrival at the diamond fields in September, 1872, Sir. H. Barkly found a further excuse for delaying arbitration, and the "constitution of the tribunal" which, in July, he had audaciously informed his Parliament was already "*settled*." Writing from "De Beer's 'New Rush,'" on the "11th September," to Mr. Höhne, the well-known Government Secretary of the Orange

Free State, he says, "It had been my intention previously to have acknowledged his Honour's letter" (of 16th August). "Under present circumstances I, of course, abstain from making such a communication."

But Mr. Höhne, then Acting-President of the Free State, very cleverly debarred Sir H. Barkly from this ready plea for procrastination, by informing the latter, in a despatch dated "16th September, 1872," that it would "afford (him) much pleasure to receive the communication which your Excellency refers to as having been your intention to address to the President. . ."

Sir H. Barkly then forwarded his reply, dated "De Beer's 'New Rush,' 23rd September, 1872." Need it be observed that he again raised fresh obstacles to the constitution of the tribunal he before declared had been "settled"? He states:—

"I trust that one or other of those Ambassadors will select a . . . Super-Arbitrator . . . but if, for any reason, difficulty should occur, it would be necessary to provide otherwise for the appointment . . . and I would therefore *again, propose* that the names of the Austrian and Italian Ambassadors AND the President of the Helvetic Confederation be added to the names of the four Ambassadors . . ."

By this passage Sir H. Barkly not only proves that instead of being "settled" the "constitution of the tribunal" was as far from being arranged as at the first, *but he adds to and alters his former objection about the number of Ambassadors!* In his letter of 30th July, 1872, already quoted, he proposed "including the Austrian and Italian Ambassadors, OR the President of the Helvetic Confederation." He now changes the proposition into "AND the President," etc., thus including the latter as necessary to

be added, instead of offering him in place of one of the two first! With cool irony he remarks :—

“I shall be prepared, upon receipt of the draft Deed of Submission, to insert the names of the three Commissioners to be appointed by me. . . . I hope that . . I may very shortly receive your proposed Deed of Submission !”

The ironical nature of this request for the Deed of Submission is palpable. He always puts off his agreement to arbitration until he receives the Deed, and he invariably prevents and obstructs the drafting of any deed by continually raising new, vexatious, and absurd propositions and objections! How, under these circumstances, can arbitration or any practical result ever be attained? Furthermore, in this reply to Acting-President Hühne, Sir H. Barkly raises another serious difficulty—need it be added, upon utterly false premises? He states :—

“It is the more necessary that the specific territory claimed by your Government, and the specific grounds upon which it is claimed, should be fully set forth : . . as I perceive from your Honour's letter of the 16th inst., *that your Honour would wish to revert to Sir H. Smith's proclamation of 1848, and to the Convention of 1854, as to the grounds upon which your Government bases its claim, instead of those stated by Mr. Brand in his letters of the 23rd March and 16th August last, and, as you are aware, Her Majesty's Government would not consent to go to arbitration as to the said Convention.*”

In the first place, *Mr. Hühne never mentioned either Sir H. Smith's Proclamation or the Convention!* Secondly, if he had done so, in the sense asserted, he would have been thoroughly justified, for Her Majesty's Government have never refused to acknowledge and submit to arbitration the treaty rights secured to the Free State by the Convention—nor could they, indeed,

ignore the existing fact *that to this day the Convention is the treaty between the two countries*. It was a pretty bold attempt to gain a double object. Sir H. Barkly was doubtless anxious to overreach his new opponent when success would mean the exclusion from arbitration of the extremely plain and damning clauses of the Convention, and, at all events, by causing fresh correspondence, would create further delay.

In the month of October, 1872, the Free State Volksraad appointed a Commission of three members—Messrs. W. W. Collins, F. P. Schnehage, and G. J. du Toit—to administer the Government during the deplored illness of President Brand. These gentlemen, in a despatch dated “October 24th, 1872,” again illustrate the unblushing falseness of Sir H. Barkly’s declaration to the Cape Parliament, in July, that the constitution of the Arbitration Tribunal *had “been settled,”* and, commenting upon the difficulty he had raised as to the Convention, &c. (last quoted), well observed :—

“It is not without considerable surprise that the Government now discovers in your Excellency’s letter under reply, *that your Excellency now indicates that it will be necessary to insert in the Deed of Submission stipulations which were never contemplated, and which the Government of this State never did and never could agree to.*

“The Commission having carefully considered the whole of the correspondence which has taken place . . . and more especially the President’s letter mentioned by your Excellency, *fails to discover that the Government ever waived the right to quote the Convention, or any other instrument which could be cited in elucidation of the true intent and meaning of the Convention . . . by which the whole of the territory situated between the Orange River, the Vaal River, and the Drakensberg, was formally ceded and made over ; but, on the contrary, the opposite is clearly discernible throughout the whole of the correspondence.*

"What the Government of the Orange Free State *did waive*, respecting the Convention, *was the submission to arbitration of the construction which they maintain is borne by Article 2.*"

And so, as long as Sir H. Barkly chooses to quibble, prevaricate, and state the thing that is not, may arbitration be deferred, and correspondence be continued *ad infinitum*. So utterly mendacious, so teeming with duplicity, is Sir H. Barkly's reply to the above despatch, that I feel bound to publish it *in extenso* :—

"Government House, Cape Town, 13th November, 1872.

"To their Honours the Commissioners administering the Government of the Orange Free State.

DESPATCH.

"GENTLEMEN, — I have the honour to acknowledge the receipt of your letter of the 24th October, concerning the proposed arbitration about the boundaries of Griqualand West, from which I was glad to perceive that the late Acting-President, Mr. Hohné, when he fixed my particular attention upon the Protest of the Volksraad, dated 4th December, 1871, must be (a) understood not as having intended to refer to what is called therein a breach of Article 2 of the Convention of 1854, but (b) *simply* to that part of said Protest which maintains that the Orange Free State, established by that Convention, includes the whole territory which is situated between the Orange River, the Vaal River, and the Drakensberg.

"2. Although this assertion differs considerably (c), as I have

REMARKS.

(a) Sir H. Barkly refers to the paragraph I last quoted from the Commissioners' despatch; but not a word therein justifies the strange *double entendre* he chooses to put upon Mr. Hohné's reference to the *whole* of the Protest of the Volksraad, *not one paragraph*. How did Sir H. Barkly guess that Mr. Hohné referred "to what is called therein a breach of Article 2 of the Convention," *when he never mentioned it?*

(b) The ready way in which his fancy shifts a reference which was never made, by the equally unfounded assertion that the Commissioners explain it as stated in the opposite paragraph, is not quite so simple as implied.

(c) Supposing such an "assertion" had been made, this statement is wholly untrue. I have repeatedly quoted the

pointed out before, from that whereon President Brand rested his willingness to proceed to arbitration, viz.—‘the rights and claims of the Free State to the Campbell grounds on the north of the Vaal River, and the territory within the Vetberg line to the south of that River,’ obtained as asserted, with the exception of three farms, by sale by the heirs of Cornelius Kok, of Campbell (d), I am perfectly prepared to accept the same as the ground upon which the Government of your State lays claim to a part of the territory proclaimed by me as Griqualand West; and to let Captain Waterboer’s case, on the other side, rest on the protest that his boundaries, long before the issue of the Proclamation of Sir H. Smith, have been fixed by (e) treaties, which have been acknowledged by the British Government, and that consequently (?) he has neither by conquest, nor by sale or transfer, lost any part of the ground thus fixed.

“3. These respective assertions can easily be mentioned in suitable legal words in a deed of submission, which could be drawn, and the arbitrators on that basis commence their work within a month.

“4. I am equally surprised and regret to see from a further part of your letter, that ‘the

grounds on which President Brand has *always* based the rights of the Free State in his despatches to Sir H. Barkly, so that the latter cannot in ignorance have presumed to state that the only claim was by virtue of “sale by the heirs of Cornelius Kok”! *President Brand has always maintained the rights of the Free State to the territory in question by virtue of Sir H. Smith’s Proclamation of 1848; the Convention of 1854; the purchases from Cornelius and Adam Kok, David Dantzer, &c.*

(d) The ruse by which Sir H. Barkly seeks to entangle the Commissioners in a net of his invention, by so “simply” attempting to bind them to an untenable position [par. (b)], is but a clumsy piece of chicanery, and would discredit the veriest tyro in diplomatic art.

As the Free State never did include the “whole territory between the Orange River, the Vaal River, and the Drakensberg,” although such constituted the Sovereignty, and at its abandonment, was, *on paper*, transferred to the new Free State (See pp. 51—56, Chap. III.), an affirmative assertion would be utterly absurd. For instance, the Free State never included Basuto-land. There can be no doubt that this is only another dodge of Sir H. Barkly’s to prevent arbitration.

(e) *That the boundaries Sir H. Barkly has seized for Waterboer*

Commissioners cannot agree (with me) as to the desirability of inserting in the Deed of Submission the grounds upon which the Government of the Orange Free State base their right and title to the tract of country in question.' (f) Months ago such an exposition of claims has in my correspondence with President Brand been accepted as a matter *sine qua non*; nor has his Honour, although desirous that the difference concerning the manner of election of arbitrators and umpire should first be settled, ever declined to consent to such a reasonable proposal.

"5. (g) If, in your capacity of Commissioners appointed by the Volksraad to administer the Government during his Honour's illness, you persist in refusing concurrence, I shall, I am sorry to say, have no alternative but to suspend negotiation for the present, as I must decline to sign any Deed of Submission which leaves it optional to the Government of the Orange Free State to shift the grounds of its claim from time to time, and take up a new position whenever it may be deemed advantageous to its interest to do so. —I have the honour to be, &c.,

"HENRY BARKLY,

"Governor and High Commissioner."

were ever mentioned in treaties, or were ever acknowledged by the British Government *previous to that seizure*, is utterly false. I have quoted all the so-called treaties in Chapters VIII. and IX., so my readers can judge for themselves.

(f) This statement I must also denounce as wholly untrue. I have repeatedly and carefully perused every despatch President Brand has written to Sir H. Barkly, and declare that no such stipulation has ever "been accepted (by him) as a matter *sine qua non*." Sir H. Barkly says President Brand never "declined to consent," but I defy him to state where and when the latter ever *assented* to "such a reasonable proposal"!

(g) Can my readers credit the fact that it is *one of the parties to the case to be arbitrated* who dares to use this language? Is it usual for one of the two parties to such a case to point out and arrange for the other the grounds and evidence upon which alone the matter shall be submitted to arbitrators? Has the Tichborne Claimant been allowed to dictate the terms of his opponents' defence? Did England presume to dictate the only terms and points of evidence the United States should use in the Alabama arbitration? What right has Sir H. Barkly to dictate to the Free State what it may and may not plead?

In continuation of my remarks upon the last paragraph of the above despatch, I would ask, if the Free State were to submit to such arrogant, unusual, *ex parte* interference and dictation by its worst opponent, would the result be arbitration or a decision in his own favour by one of the interested parties? It seems difficult to realize the fact that a high public functionary can confidently pursue a course of such intolerable injustice. For my part, I venture to affirm that no honest man would so persistently strive to prejudice and prevent the fair setting forth and hearing of an adversary's case. The matter pending is between Sir H. Barkly and the Free State. He may state his own case how he likes: what right has he to also assume the position of censor to that of his opponent? As he does so, we can only believe that he desires to be consistent, to usurp the functions of the arbitrators, as he has already usurped the government and possession of the territory, the right to which, in consequence of that act, has to be arbitrated.

The reply of the Commissioners to the despatch under review is so admirable, their arguments are so terse, logical, and statesmanlike, that I cannot refrain from quoting it *verbatim*, except only such part as relates to the dispute as to the Super-Arbitrator, which I have already fully referred to at pp. 380—382.

“Bloemfontein, 4th Dec. 1872.

“His Excellency Sir HENRY BARKLY, K.O.B., Governor and High Commissioner, Capetown.

“SIR,—We have the honour to acknowledge the receipt of your Excellency's letter of the 30th ultimo.

(a*) “Mr. Höhne, the late Acting-President, in referring

* These letters denote the respective passages in reply to such parts of Sir H. Barkly's despatch as have similar marks appended

your Excellency, in his letter of the 16th September last, to the correspondence which has taken place between your Excellency and His Honour the President, and directing your Excellency's attention to the Protest of the Volksraad of the 4th December, 1871, (b), *had no intention of thereby conveying an impression that the Government of the Orange Free State intended to indicate the basis on which their right and title is founded to the Campbell lands, to the North of the Vaal River, or the lands to the South of that River, within the Vetberg line, and the three British land certificate farms; (c) and we are surprised to find that your Excellency is labouring under the erroneous impression that the Government of the Orange Free State contend that the lands in question were acquired as alleged, with exception of three farms, (d) by purchase from the heirs of Cornelius Kok of Campbell, while your Excellency must be aware of the fact, that Her Britannic Majesty's Government, while this country was under its sovereignty, apportioned the greater part of the land situated to the South of the Vaal River to natives and Europeans, to the latter by granting titles to farms in upwards of thirty instances, and which titles had to be, and have been, guaranteed by this Government, in terms of the Convention of the 23rd February, 1854; so that, although your Excellency expresses your perfect readiness to accept the contention as stated by your Excellency, it is obvious that it could not be adopted by this Government.*

(f.) "We regret to find that your Excellency does not concur with that portion of our letter of the 24th October, in which we stated that we did not think it desirable that an elaborate statement of the grounds upon which the case of the Orange Free State is based should be embodied in the Deed of Submission, as the manner of arbitrating the same may thereby be rendered more complicated, thinking, as we still do, *that a clear and concise statement of the points at issue between our respective Governments, is all that can be deemed necessary, and in that view we are strengthened on reference to the very lengthy correspondence which has for months past taken place on this vexed question, from which we have not been able to gather that His Honour President Brand ever adopted the course proposed by your Excellency, and still less that it has been laid down as a sine qua non. The reasons upon which our objection to the proposed course is founded are, that it is neither usual nor expedient.*

"As the question to be decided is simply one of right, we consider that everything should be avoided by which either of the parties would be debarred from obtaining that justice to which it is entitled, and it would be a matter of serious regret, should either of the parties after the Deed of Submission

is signed, without intending to 'shift' the grounds upon which its claims are based, find itself restricted and fettered by stipulations clothed in legal phraseology, giving rise to complications and misunderstandings which would prevent them bringing forward all their proofs, make it difficult for the Commission of Arbitration to arrive at an award, and defeat the ends of justice.

(d) "The Commissioners must again repeat what has before been so forcibly urged by this Government, that the title of the Orange Free State and its right of ownership to the Campbell lands, lying to the North of the Vaal River, and the lands to the South of that River, within the Vetberg line, and the three British land certificate farms through which that line passes, and the many other farms held under British titles are founded upon, and have been acquired by, His Excellency Sir Harry Smith's Proclamation of 1848, the Convention of Sir G. Clerk, as Her Majesty's Special Commissioner, of the 23rd February, 1854, the settlement of lines* between the late Captain Cornelis Kok of Campbell, and Captain N. Waterboer by Captain Adam Kok, on the 10th October, 1855, and the subsequent acquisition by this State, in 1861, by purchase from Captain Adam Kok, of Philippolis, as heir to or successor of Captain Cornelis Kok, of the latter's entire ownership of that portion of territory formerly belonging to him, and they do not feel at liberty to waive any of these rights of ownership; His Honour President Brand having merely consented to exclude from the proposed arbitration the true intent and meaning of Article 2 of the Convention of 1854, as to whether the acceptance of Captain Waterboer and his followers as British subjects was not a breach of the said Convention, and this point was only conceded when this Government ascertained the very strong objection entertained by Her Majesty's Government to submit that question to arbitration, but this Government nevertheless feels bound to adhere to their opinion on that point as well as to the Protest against it, as set forth in the latter portion of clause 4 of His Honour President Brand's letter to your Excellency of the 30th May last. And as the Government of the Orange Free State withdrew their authority from the territory legitimately acquired as above stated, upon forcible possession being taken of it under your Excellency's Proclamation of the 27th October, 1871, and the subsequent acts of violence committed notwithstanding its solemn protest, in which we are still bound to persist, our Government, as your Excel-

* The Vetberg line.

lency will readily understand, although still quite as anxious as it has ever been, to have this unfortunate contention finally and amicably settled by an equitable arbitration without further delay, cannot in fairness be expected to waive any rights acquired by the above-mentioned formal document, and it fails to see how they can be placed in the anomalous position of a mere 'claimant' in the present controversy, seeing that the Government of the Orange Free State up to the period at which it withdrew its authority enjoyed undisturbed possession and exercised territorial jurisdiction and authority over all country situated to the South of the Vaal River, within the Vetberg line, and the three British land certificate farms, and the many other farms held under British titles, lying within the tract of country proclaimed British territory by your Excellency UNDER THE PRETEXT THAT IT BELONGED TO CAPTAIN N. WATERBOER.

(e) "*The treaties between the late Captain Andries Waterboer and the British Government, our Government maintains, ceased to be of force at his death, and did not pass over or extend to his son, Captain N. Waterboer. Any treaties in existence before the year 1855 were modified, if not altogether invalidated, by the making of the Vetberg line on the 10th October, 1855, vide His Honour President Brand's letter to your Excellency of the 10th October, 1870. For these and other cogent reasons, stated in previous letters, it seems obvious, although much to be deplored, that your Excellency and our Government have not up to the present been able to arrive at an entire agreement as to the exact wording of the Deed of Submission, although we until recently, i.e., before the receipt of your Excellency's letter under reply, entertained the hope, and were under the impression, that the only matter remaining for final settlement preparatory to the drawing up of the Deed of Submission between your Excellency and His Honour the President, was merely the mode of a definite arrangement of the question touching appointment of the Super-Arbitrator to whom the case is to be referred in the event of the Court of Arbitrators not agreeing in their award.*

"With regard to the selection of the Super-Arbitrator . . . the Commissioners . . . have come to the conclusion that sufficient provision is made for the selection of a suitable Super-Arbitrator by leaving the selection to one or other of the four ambassadors, named by his Honour President Brand in his letter of the 16th August last, the more so as there appears to be no well-founded reason for believing that any of the ambassadors named would refuse to select a Super-Arbitrator at the special request of both Governments.

"Your Excellency need probably not be reminded that the Government has in diverse ways conceded many points with a view of facilitating and expediting the proposed reference to arbitration, and we make bold to express the hope that your Excellency may meet us in the same conciliatory spirit.

"We have not yet been favoured by your Excellency with a reply to Clause 9 of our letter to your Excellency of 24th October ultimo, desiring an elucidation of those clauses of your Excellency's letters of the 21st June, 30th July, and 23rd September, of 'an assurance that whatever the result of the arbitration may be, the Government of the Orange Free State engages not to assert at any future period, on any plea whatever, a claim to the same, or any other land within the area claimed by Captain Waterboer.'

(g.) "We can hardly bring ourselves to suppose *that your Excellency will now, at the eleventh hour, take advantage of the altered circumstances consequent upon the withdrawal of our authority to avoid a hostile collision, adopt so arbitrary a course as to suspend further negotiations for the present in a matter in which so much unnecessary delay has already taken place, and upon the amicable solution of which so very much depends.*

"We have the honour to be, &c.,

"W. W. COLLINS, *Chairman,*

"G. J. DU TOIT,

"F. P. SCHNEHAGE."

Up to the time of going to press (February, 1873) the above despatch is the last instalment to the arbitration correspondence which I have received from South Africa, or which has arrived in England. It is a worthy and a memorable document with which to conclude this Chapter. As for the future correspondence, it may yet continue for months or years; but I venture to believe that amply sufficient has been herein quoted to show upon which side is right, truth, and honesty of purpose. For my part I am quite satisfied that Sir H. Barkly will do all in his power to delay and prevent the proposed arbitration until after Earl Kimberley and his colleagues have been simple enough

to relieve him from his very serious responsibility and dilemma, by taking over from him and declaring the diamond fields a separate and independent British Crown Colony. Indeed, I would even go so far as to express my conviction that arbitration will never come off so long as either Mr. Richard Southey or Sir Henry Barkly are permitted to have a voice in the matter.

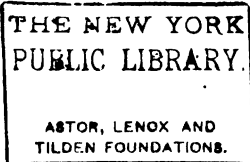
Since the above remarks appeared in a hurried first edition of this work, they have received ample confirmation by despatches of which copies have this day (20th of February, 1873) reached me. *Sir H. Barkly HAS declined to continue the correspondence and negotiations on the subject of arbitration!* Has refused a reply to the able despatch of the Commissioners last quoted!

Of course, he has a pretext for this tyrannical, arbitrary, cowardly policy. We have seen that he is never at a loss for some mean subterfuge. The Free State authorities having chanced to seize some smugglers of guns and ammunition within their territory, he has the hardihood to state, in a despatch dated "January 1, 1873":

"In the present position of our relations, arising out of *the aggressive acts* recently committed by the Free State authorities, I feel it to be out of the question to enter upon the consideration of your Honour's letter of the 4th ultimo!"

This shameful conduct the Governor tries to justify upon the pretence that the smugglers and contraband goods were seized within the boundary line *according to Mr. Orpen's chart!* that chart, up to the period in question, *never having been officially communicated to the Government of the Free State; their assent thereto never having been sought; and the chart itself (as shown in the next chapter) being entirely incorrect.*

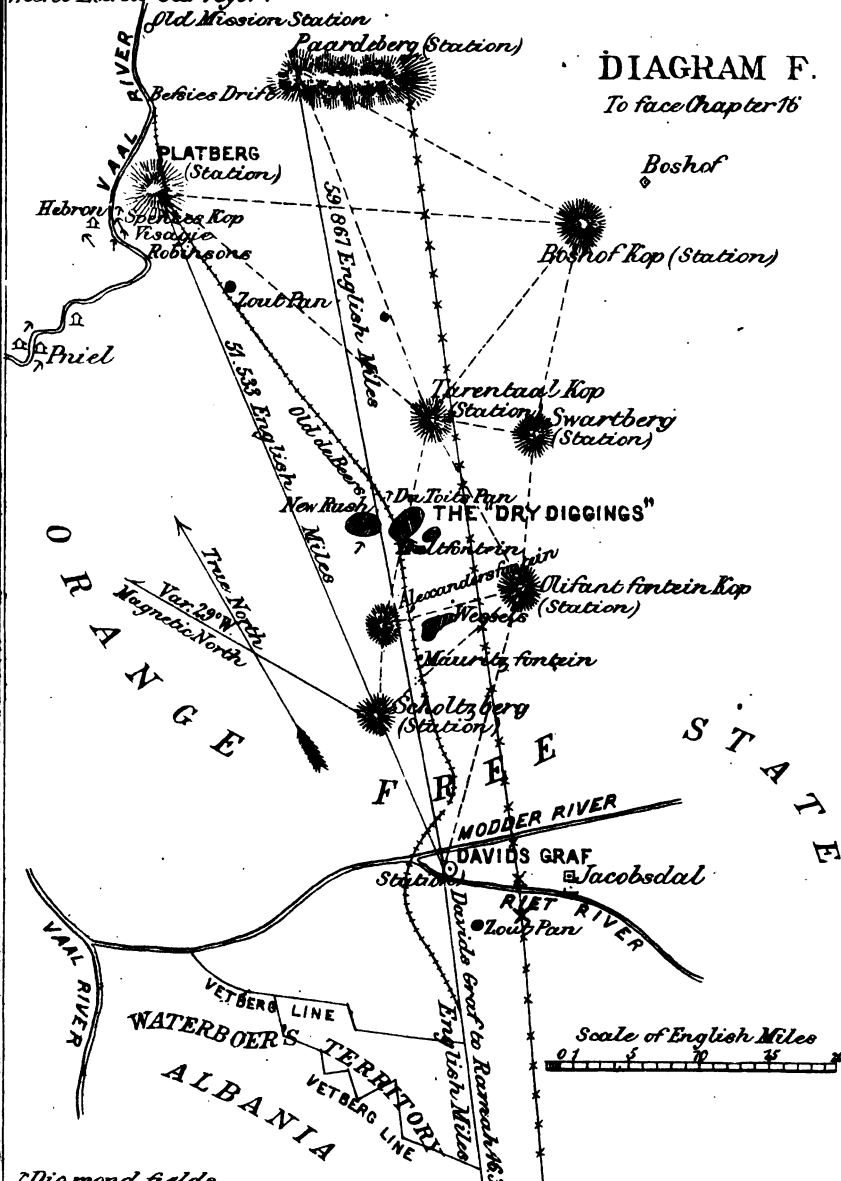
Although the Free State Government utterly repudiates any line whatever, it has, to preserve peace, scrupulously respected a line from Ramah *viâ* David's Graf to Platberg, as laid down in diagram F, since the seizure of its 143 farms by Sir H. Barkly; *but it could not respect Orpen's fictitious line, which it had never seen!* We have all heard of the fable of the wolf and the lamb!



Plan of a triangular survey of the line between David's Graf and Platberg (proclaimed by Sir H. Barkly) by me, Jos. L. de Villiers, Government Land Surveyor.

DIAGRAM F.

To face Chapter 16



*Diamond fields.

----- Old line between Cornelius Kok and David Dantzer.

X False position of Platberg & David's Graf announced by Sir H. Barkly in order to embrace the Diamond Fields by the line claimed for Waterboer from those points.

----- The incorrect line by which the Dry Diggings are brought within the limits of "Griqua land West."

CHAPTER XVI.

THE LINE FROM RAMAH, *vid* DAVID'S GRAF, TO PLATBERG, AND HOW IT HAS BEEN TAMPERED WITH, ALTERED, AND PERVERTED, BY SIR H. BARKLY AND HIS COLLEAGUES, IN ORDER TO OBTAIN POSSESSION OF THE FAMOUS "DRY DIGGINGS." UNPOPULARITY OF SIR H. BARKLY'S GOVERNMENT AT THE DIAMOND FIELDS.

THE "DRY DIGGINGS" SEIZED BY SIR H. BARKLY'S AGENTS BEFORE THEY KNEW THOSE PLACES WERE WITHIN THE BOUNDARY OF THE TERRITORY HE HAD PROCLAIMED.—MR. DE VILLIERS' SURVEY OF THE LINE FOR THE FREE STATE.—ITS ACCURACY.—A SURVEY (MR. GILFILLAN'S) APPROVED BY SIR H. BARKLY, PROVED TO BE INACCURATE.—GROSS DISCREPANCIES BETWEEN SIR H. BARKLY'S STATEMENTS, MR. GILFILLAN'S SURVEY, AND THE SURVEY BY MR. FRANCIS ORPEN—ALSO MADE FOR THE CAPE GOVERNMENT.—PROOF THAT MR. DE VILLIERS' SURVEY IS CORRECT, AND THAT (EVEN ADMITTING THE ABOVE LINE) THE "DRY DIGGINGS" BELONG TO THE FREE STATE.—SIR H. BARKLY'S FALSE REPORTS AS TO THE SUCCESS AND POPULARITY OF HIS GOVERNMENT AT THE DIAMOND FIELDS—PROOF TO THE CONTRARY, SHOWING THAT LYNCH-LAW, RIOT, AND ENTIRE DISSATISFACTION EXISTS.—CORRUPT PRACTICES PREVAILING AMONGST SIR H. BARKLY'S OFFICIALS.—CONCLUSION.

I have already pointed out the fact that Sir H. Barkly and his late colleagues can have had but one object in proclaiming the line "*from Ramah, vid David's Graf to Platberg*" and (in Waterboer's name) seizing upon Free State territory up to that boundary;

and that that object was the express intention and desire to obtain the richest of all the diamond fields, the famous different diggings forming a cluster known as the "dry diggings." This intention is proved by the Governor's emissaries not only taking possession of those places as being within the said line, but by their issue of sundry maps and plans, also placing Du Toit's Pan, Bultfontein, and Alexandersfontein, De Beer's Old and New Rushes, some distance inside the boundary.

Now, by the annexed diagram F, it will be seen that all those places are really outside, to the east of the line claimed and taken possession of *vi et armis* "from Ramah, *viâ* David's Graf to Platberg;" and, consequently, still within Free State territory! So that, even supposing this line to be rightly Waterboer's, and rightly seized for him by Sir H. Barkly and his coadjutors, by their own statements and claims those diggings have been wrongfully taken into their possession! They claim the land up to their fabricated line, but admit the right of the Free State to everything on the other, or eastern side, where its possession and jurisdiction has not been molested! Therefore, the question is, on which side of the line are the "dry diggings" actually situated? I submit that Mr. De Villiers' survey conclusively proves those places to be one and all on the Free State, or eastern side of the line.

1. This survey was not made subsequent, but some time previous, to the Proclamation of October 27th, 1871, and the invention and seizure of that line, so that it cannot be liable to any suspicion of "cooking," or fraudulent intent to place those "diggings" within Free State territory.

2. Being a trigonometrical survey, from prominent points, one within sight of the other, for the express purpose of measuring and determining the boundaries and extent of the farms spread over the neighbourhood, its perfect accuracy, I submit, is unquestionable; and has been fully agreed to not only by the owners of estates concerned, but by the Government of the country, *previous* to the seizure of the "dry diggings," by Messrs. *Los Filibusteros*.

3. *Subsequent* to such seizure, Mr. De Villiers has carefully gone over his actual measurement of the ground, and fixed the position of the "dry diggings" at the places marked on his survey.

4. A plan like this, by triangulation, cannot be incorrect, for any person of ordinary education, who chose to take the trouble, could certainly and easily detect even a trifling inaccuracy, much less the placing of prominent objects some miles out of position; and, whereas the robbers of the diamond fields place the "dry diggings" variously, by their different charts, four and eight miles to the West of, or within a straight line from David's Graf to Platberg, Mr. De Villiers places them, at their nearest approach, three and a-half miles to the East, or outside of that line, and within Free State territory.

It is an incontrovertible fact that Sir H. Barkly's agents seized and took possession of the "dry diggings" (their main object) *before they knew whether those places were within or outside the line they claimed, and before Sir H. Barkly had time to officially communicate the result of a survey he had ordered to be made!* This illustrates the *animus furandi* with which they proceeded.

On the 4th November, 1871, a force of armed and

mounted Cape police invaded Free State territory and took possession of Du Toit's Pan and De Beer's "dry diggings"; but in a despatch to Earl Kimberley, Sir H. Barkly, under date "*November 2,*" states:—

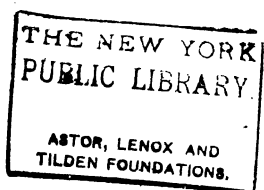
"I think it right to enclose a tracing from a survey made by Mr. George Gilfillan, whom I employed to ascertain the exact position of the boundary line claimed by that Chief" (Waterboer), "and which has been *only this day received* from the Special Magistrate" (Mr. Campbell, at Klip-Drift).

Now, as Cape Town is about 570 miles, as the crow flies, from Klip-Drift, and Sir H. Barkly received this survey on the "*2nd of November,*" it is needless to point out that his agents at Klip-Drift could not have received his consequent views and instructions in time to act on the "*4th of November.*" Railways and telegraphs do not extend beyond Wellington, some 50 miles from Cape Town, and the mail-cart requires eight or nine days for the journey to Klip-Drift.

In his despatch to Earl Kimberley, Sir H. Barkly goes on to say:—

"This survey was made with great care (*a*), *the latitude and longitude of the three principal places, David's Graf, Du Toit's Pan, and Platberg, having been first ascertained,* and it would appear from it that the (*b*) OLD MISSION STATION AT PLATBERG lies, according to the scale annexed, 28 miles North and by East of the locality assigned to it in the Natal Map."

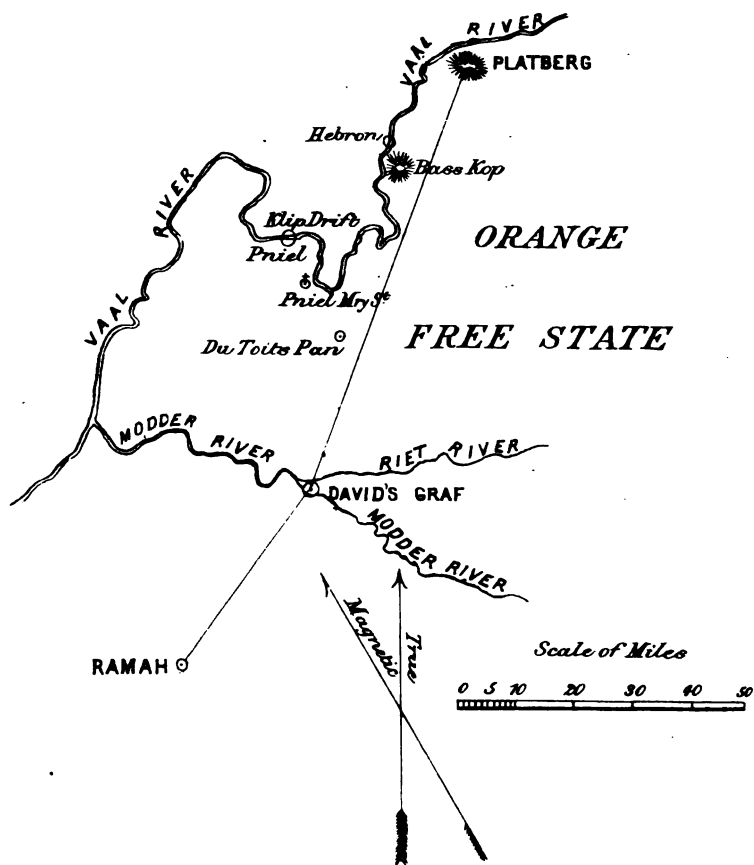
Upon examination, this survey proves to be fallacious and inaccurate; (*a*) the latitude and longitude is either incorrect, or the survey is not delineated according to those observations. (*b*) Moreover, instead of the real Platberg being taken for one (the Northern) terminal point of the line, the "old Mission Station," 28 miles distant, N. 22° 30' E., has been wrongly



*Copy of "tracing from a survey made by M^r George Gilfillan,"
referred to by Sir H Barkly on November 2nd 1871*

DIAGRAM G.

<i>Platberg</i>	25° 51' E
	28° 2' S
<i>Du Toits Pan</i>	25° 28' E
	28° 42' S
<i>David's Graf</i>	25° 20' E
	29° 6' S



used; no doubt, in order to get the line further to the East, so as to include the "dry diggings."

We will now notice the grave errors in this "survey made with great care:"* The annexed diagram G. is a literal copy of the plan which appears in Sir H. Barkly's despatch.

The position of the two terminal points of the line is given as:—

" Platberg	25° 51' E.	..	28° 2' S.
David's Graf	25° 20' E.	..	29° 6' S."
<hr/>			
Diff. of longitude..	— 31'	1° 4'	Diff. of latitude.

Which gives a distance of $81\frac{1}{2}$ *English statute miles*, from point to point; whereas, according to the chart, Platberg is placed only 78 miles from David's Graf! Nearly $3\frac{1}{2}$ miles W. by S. of the position according to the astronomical observation! Or, to start from Platberg, then David's Graf is placed by Mr. Gilfillan $3\frac{1}{2}$ miles E. and by N. of its position by latitude and longitude!

The position of Du Toit's Pan is given as:—

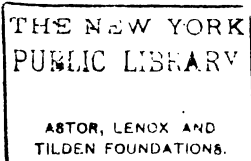
" Du Toit's Pan.. .	25 28' E.	—	28 42' S.
David's Graf . . .	25 20' E.	..	29° 6' S."
<hr/>			
Diff. of longitude..	8.	24'.	Diff. of latitude.

Which gives a distance between the two places of 29 *English miles*. But on the chart Du Toit's Pan is marked only 26 miles from David's Graf! And either it is 3 miles S.W. of its observed position, or David's Graf is 3 miles N.E. of its latitude and longitude, and considering how near the "dry diggings," are to the line, the difference of even one mile is highly important.

* *Vide* p. 25, Blue Book, "Further correspondence respecting the affairs of the Cape of Good Hope."—London, February 6th, 1872.

Besides which, as the parallels of latitude and longitude are not marked on this plan, it is utterly impossible that the position of any given place can be accurately shown, according to parallels which do not exist. To fix the position of a place by astronomical observation and calculation, it is absolutely essential that the performer should have an accurately compiled chart, *with the parallels of latitude and longitude exactly defined*; and, failing this, the only possible way to make a correct map is, on a small scale, by construction, or actual trigonometrical measurement (regardless of latitude and longitude), as Mr. De Villiers has done, and who, moreover, has publicly offered to submit his Field-book to the inspection of any surveyor for verification !

In addition to the discrepancies between the given latitude and longitude of the three places, and the actual positions in which they are marked on Mr. Gilfillan's plan, there exists in Diagram H (Mr. Orpen's survey for Sir H. Barkly) a still more crushing proof of the gross errors pervading one or the other. As Mr. Orpen's survey contains the parallels of latitude and longitude, and seems to be enlarged from existing maps, with the required localities added, it is probable that his survey is the most accurate of the two. But, wherever the error exists, it is excessive, and utterly destroys the value of both the only two surveys upon which Sir H. Barkly founds his claims to the "dry diggings." The following comparison of the latitudes and longitudes given by Mr. Gilfillan, and taken by calculation and measurement from Mr. Orpen's survey, the reader can easily verify upon reference to Diagrams G. and H.

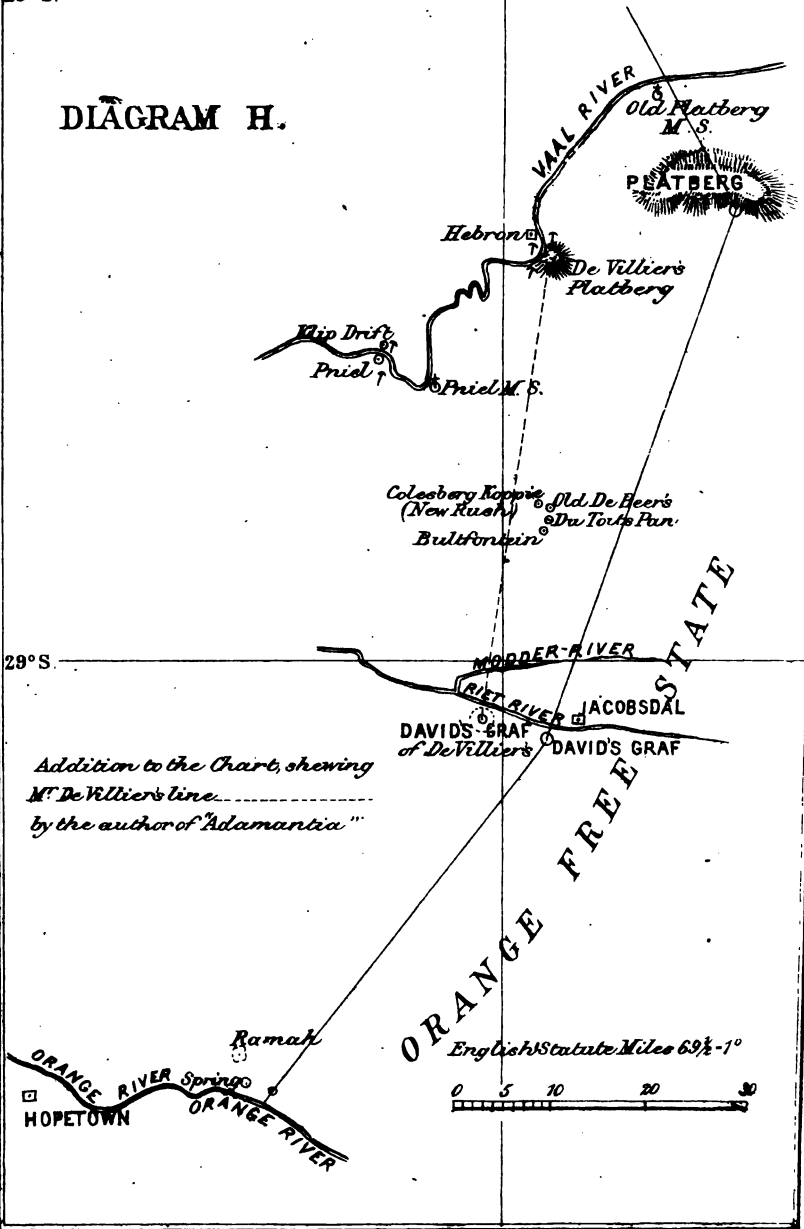


25° E.

Copy from M^r Francis H. Orpen's survey of the line from Ramah via David's Graf to Platberg (1872.)

28° S.

DIAGRAM H.



To face Page 399 Chap. XVI.

MR. GILFILLAN'S POSITIONS.		POSITIONS TAKEN FROM MR. ORPEN'S SURVEY.		DISCREPANCIES.
Platberg	$\left\{ \begin{array}{l} 25^{\circ} 51' \text{ E.} \\ 28^{\circ} 2' \text{ S.} \end{array} \right.$	Platberg or Paardeberg	$\left\{ \begin{array}{l} 25^{\circ} 23' \text{ E.} \\ 28^{\circ} 17' \text{ S.} \end{array} \right.$	28' Diff. of longitude. 15' „ of latitude.
Ditto	$\left\{ \begin{array}{l} 25^{\circ} 51' \text{ E.} \\ 28^{\circ} 2' \text{ S.} \end{array} \right.$	The old Platberg Mission Station	$\left\{ \begin{array}{l} 25^{\circ} 14' \text{ E.} \\ 28^{\circ} 8' \text{ S.} \end{array} \right.$	37' „ of longitude. 6' „ of latitude.
Du Toit's Pan	$\left\{ \begin{array}{l} 25^{\circ} 28' \text{ E.} \\ 28^{\circ} 42' \text{ S.} \end{array} \right.$	Du Toit's Pan	$\left\{ \begin{array}{l} 25^{\circ} 4' \text{ E.} \\ 28^{\circ} 48' \text{ S.} \end{array} \right.$	24' „ of longitude. 6' „ of latitude.
David's Graf	$\left\{ \begin{array}{l} 25^{\circ} 20' \text{ E.} \\ 29^{\circ} 6' \text{ S.} \end{array} \right.$	David's Graf	$\left\{ \begin{array}{l} 25^{\circ} 5' \text{ E.} \\ 29^{\circ} 7' \text{ S.} \end{array} \right.$	15' „ of longitude. 1' „ of latitude.

Comment upon the above figures is needless. I leave the two Surveyors and Sir H. Barkly to reconcile how they can such immense discrepancies; it is sufficient for my purpose to prove the entirely worthless and unreliable nature of the only surveys on which the Governor depends.

Further condemnation of Mr. Gilfillan's plan exists in the fact that, instead of taking Platberg, a hill on the left bank of the Vaal (which he names "Bass Kop") for one of the terminal points of the line he wishes to define, he starts from what is called "the old Platberg Mission Station," but which is a place that has never been known as a boundary beacon.

Moreover, it would be interesting to know by what means Mr. Gilfillan obtained his observations; especially the longitude of the places—whether by chronometer, lunar observation, or some approximate method. As the least error in the work would lead to

a mistake of some miles, and the boundary line runs north and south, but a small inaccuracy would place the dry diggings east or west of the line.

In a despatch dated "Bloemfontein, April 24th, 1872," Mr. F. K. Höhne, Government Secretary of the Free State, enclosed a copy of Mr. De Villiers' survey to the Government of the Cape Colony. From the Colonial Secretary's reply, dated "Cape Town, May 9, 1872," we take the following extract:—

"With regard to the plan of the line between David's Graf and Platberg, transmitted with your letter, I am to point out that an essential preliminary to the accurate definition of the line is *an exact determination of its terminal points*, as to which the information in possession of this Government leads to a conclusion at variance with that which would appear to be held by the Government of the Free State. His Excellency is *not prepared to admit that the position of David's Graf is (as given in the plan under notice) to the south of the Riet River (a)*, while, as regards the opposite extremity of the line, there is perfectly trustworthy evidence, in His Excellency's opinion, *to identify the real Platberg with the easternmost of the two mountains (b)* put forward in the plan under that name. It will further be clearly essential to decide *to what point in the real Platberg the line should run*, seeing that (even according to the plan which you have furnished) if the North-eastern extremity of the range were adopted,—*as His Excellency understands is claimed by Captain Waterboer—instead of the South-western peak, as taken by Mr. De Villiers, (c)* Du Toit's Pan would be found to fall within the line claimed as the boundary of West Griqualand."

It can readily be believed that, having already stolen the diamond fields, the Colonial Government would not allow a mere boundary line to take back the richest part of the plunder. As the accuracy of Mr. De Villiers' actual survey cannot be disputed, nothing is easier than to assert that it is based upon wrong points—that the terminal points of the line he has measured off are not those he should have taken! It

is only consistent with the *modus operandi* that has been pursued by the late Colonial Government throughout the progress of their designs upon the diamond fields, viz., to deny everything asserted by the Free State, whilst affording unlimited credit to Waterboer's mere *ipse dixit*—or what *purports* to proceed from him, as most of his arguments have really originated in Cape Town!

Now, with regard to Sir H. Barkly's alleged objections to the line defined by Mr. De Villiers:

(a) "*His Excellency is not prepared to admit that the position of David's Graf is to the south of the Riet River.*"

1. On the "survey made by Mr. George Gilfillan, (Diagram G), whom I" (he) "employed," *David's Graf is placed "to the south of the Riet River,"* through that able surveyor having taken the Modder for the Riet.

2. But on the survey specially made (Diagram H) in 1872, *subsequent to that of Mr. De Villiers*, by Mr. Francis H. S. Orpen, whom Sir H. Barkly had appointed Surveyor-General of the plundered territory, there can be no doubt about the matter, *for David's Graf is distinctly placed some little distance "south of the Riet River"*—the northern branch of the stream being rightly named the Modder.

3. Moreover, on Mr. De Villiers' plan, *David's Graf is not placed "to the south," but on the north bank of the Riet River!* (as shown in Diagram F.)

(b) "*In his Excellency's opinion there is perfectly trustworthy evidence to identify the real Platberg with the easternmost of the two mountains put forward in the plan under that name*"—(the "Paardeberg" on Diagram F).

If so, how was it that, in Mr. G. Gilfillan's plan, "made with great care," *quite another place*—"the old Mission Station," about fifteen miles from Paardeberg, the "easternmost of the two mountains," and more than twenty miles from the westernmost, came to be taken and defined as Platberg, "*the real Platberg*"?

How came it to pass that Sir H. Barkly's surveyors chose such different and widely separate "real Platbergs," and that, on the 9th of May, 1872, Sir H. Barkly declared for Paardeberg?

The reply is very simple. Mr. Orpen had doubtless ascertained the inaccuracy of Mr. Gilfillan's plan, and had possibly found that, were the line to be drawn from either "the old Mission Station" or the Platberg used by Mr. De Villiers, the rich "dry diggings" (for which all the trouble was being taken) would be left outside the line, and to the Free State, therefore, naturally enough, he selected Paardeberg—and it is very doubtful whether he had any information to act upon beyond his own pleasure, considering Waterboer never had a boundary or corner beacon within less than 100 miles of Platberg! At all events, he shifted the positions of both Platberg and David's Graf sufficiently far to the east to make sure of the "dry diggings." Sir H. Barkly simply denied "the old Mission Station" of Mr. Gilfillan and the Platberg of Mr. De Villiers because it had become plain by the latter's survey that if the line were drawn from either of those places to the real David's Graf, the "dry diggings" would fall to the Free State; whilst he pitched upon the "north-eastern extremity of the range" (Paardeberg), *ex necessitate rei*, as the only way to include them within the spurious boundaries

Triqualand West," or that illegal State of which as yet he is the monarch, disposer, or dictator. It would at least be interesting to ascertain how Mr. Orpen ascertained that Paardeberg was Platberg—how he discovered that poor old David's bones had become endowed with locomotion—and whether he received instructions from the Cape Government as to where the line from Ramah *viâ* David's Graf to Platberg should run, or those late rulers took their cue from him.

(c) Mr. De Villiers chose the *highest* peak of Paardeberg, as was natural, considering that not an iota of evidence exists as to any spot or part of that redoubtable mountain having ever before been used for a boundary point. Furthermore, he only used it to illustrate the fact that, even commencing the line from there, one half of the "dry diggings" would be within the Free State, though, at the same time, as all the inhabitants of that part well know, *Platberg on the Vaal* was the true point, was the only mountain that had ever been used (years ago) as a boundary point by the natives, and was, in fact, that which he also selected.

Reference to Diagram H (an exact copy reduced from Mr. Orpen's survey) will show that not only has the "north-eastern extremity" of Paardeberg been chosen as a terminal point, but that David's Graf *has been moved seven or eight miles to the east of the position assigned to it both by Messrs. De Villiers and Gilfillan* and that the southern extremity of the line is also commenced *at least five miles to the east of Ramah*, where it should start from!

Nothing can more plainly prove the *mala fides* of the

late Colonial Government in the diamond fields question than this juggling with the principal boundary line.

So far as I have been able to ascertain, that Government never obtained any evidence as to the position of David's Graf and Platberg beyond its own wishes, and the unsupported assertions of Waterboer.

In support of the Platberg claimed by the 'Free State (as an argument to prove that in any case the "dry diggings" belong to it), I quote some of the existing facts:—

1. At the meeting at Nooitgedacht, on the 19th August, 1870, Mr. W. O. Corner, one of the witnesses, declared that the old line "between Adam Kok and Cornelius Kok" was—

"Between Platberg and Ramah. I mean *Platberg on the Vaal River.*"—(See page 160, Chapter VIII.)

2. At the same time and place Mr. Andrew H. Bain deposed—

"I heard that Platberg was one of the beacons of Cornelius Kok, above, *along the river.*"—(See page 6, "*Minutes of Meeting at Nooitgedacht.*")

3. At Campbell, on the 11th December, 1863, before the Free State Land Commission (and long before diamonds were discovered), the witness, Arie Samuels, in defining the boundaries of Cornelius Kok's territory, gave Platberg as one corner beacon—

"Then through the river to *Platberg, on Vaal River.*"—(See p. 8, "*Minutes of Meeting*" at Nooitgedacht.)

4. In the alleged supplementary treaty (Annexure No. 40, reviewed in Chapter IX.) between Waterboer

and Mahura, produced by the former at Nooitgedacht, the latter thus refers to Platberg—

“To Platberg, on the east bank of the Vaal River, as our territorial CORNER BEACON.”—(*Treaty, dated Tawns, 18th April, 1864.*)

5. By referring to Diagram E, Chapter XIV., it will be seen that in 1852, Mr. Green, then British Resident at Bloemfontein, placed Platberg on the south-east, or left bank of the Vaal River.

6. In an award given by Lieut.-Governor Keate of Natal, dated “October 17th, 1871,” as arbitrator in the claims of Waterboer, sundry Kafir tribes, and the South African Republic, there occurs, in his definition of boundaries, the following passage:—

“The boundary line . . . shall follow the course of the Vaal River to a point on the said river, at which a straight line drawn from the mountain called Platberg, situated on the southern bank of the said Vaal River.”—(*See p. 26, “Further correspondence respecting the affairs of the Cape of Good Hope, 6th February, 1872.”*)

7. Sir H. Barkly in a despatch to Earl Kimberley, dated “October 31, 1871,” thus refers to Platberg—

“And I was further able . . . to place the former question beyond all doubt or cavil, by referring to the decision thus patiently and laboriously arrived at, whereby Platberg on the Vaal River, is made the point at which Waterboer’s northern boundary terminates, and equally the point, therefore, to which his line from Ramah, on the Orange River, northwards, must converge!”—(*See p. 27, Idem.*)

8. In a despatch to President Brand, dated “October 23, 1871,” Sir H. Barkly repeats the above statement, that:

“The self-same Platberg” is “the proper termination of Waterboer’s boundary line on the south bank of that river.”—(*See p. 30, Idem.*)

9. On the map accompanying Lieut.-Governor Keate's award, Platberg is placed on *the left bank of the Vaal River, exactly where Mr. De Villiers places it.* (See p. 50, *Idem*).

10. In a proclamation, dated "4th November, 1871," issued by the Barolong and Batlapin Kafir Chiefs, there occurs, in a boundary definition, the following passage:—

"The mountain named Platberg, situate on the south bank of said Vaal River."—(See p. 63, *Idem*.)

11. In the Treaty between the Griqua Captains, Cornelius Kok and Jan Bloem, "dated August 8th, 1840, Platberg is also described as—

"Platberg on the Vaal River."—(See p. 120, "*Correspondence respecting the affairs of the Cape of Good Hope, 1871.*")

12. Before leaving the Orange Free State, in May, 1872, I called at the farm Frankfort, belonging to Mr. P. Swarts in the Boshof district, and from half a dozen of the oldest residents in that part of the country obtained their unanimous testimony as to the identity of Platberg with the hill of that name selected by Mr. De Villiers. One and all referred to the place as "*Platberg on the Vaal River, on the left bank.*" Several of these farmers declared that they had known the country and resided in it since 1840, including Messrs. P. Swarts and P. M. Otto, owner of the adjoining farm. Mr. Botha declared that he had known Platberg, and resided in the country, for thirty-five years. All testified that this Platberg had originally (when the white settlers first came to those parts) been a corner boundary or beacon between the Chiefs, Cornelius Kok and David Dantzer.

Paardeberg, sometimes called Platberg, they also knew, but best as "Archibald's station"; but quite a different place, inland, and never known as a beacon.

Any quantity of similar evidence is at my hand, but I consider I have quoted quite enough to prove that *Platberg is a hill upon the left bank of the Vaal*, and identical, therefore, with that taken by Mr. De Villiers. Moreover, we have just seen that Sir H. Barkly himself placed it there "*beyond all doubt and cavil.*"

How, then, has he managed to choose *Paardeberg*, (when he found a line drawn from the other would give the "dry diggings" to the Free State), *a range of hills* SOME DISTANCE INLAND, NO LESS, INDEED, THAN TWELVE TO THIRTEEN MILES?

In corroboration of the David's Graf claimed by the Free State (as an argument to prove that, even if Waterboer's boundary were rightly drawn from thence to Platberg, the "dry diggings" still belong to it), I quote from some of the evidence:

1. In a report by Major Warden, British Resident at Bloemfontein, dated "August 3, 1850," during the time of the Orange River Sovereignty, occurs the following passage:

"It became necessary to define clearly that portion of" (the Griqua boundary) "pointed at in Adam Kok's treaty, viz., a line from Ramah . . . to David's Graf, A LITTLE ABOVE the junction of the Riet and Modder rivers."—(See p. 44, *Annexures*, "*Minutes of Meeting at Nooitgedacht.*")

2. In the Treaty between the Griqua Captains, Cornelius Kok and Jan Bloem, and the white settlers under Mr. Oberholster, dated "8th August, 1840," David's Graf is thus referred to:

"We declare it is with our consent that the line from Ramah

with a straight line to the junction of the Modder and Riet rivers, and thence to Platberg, on the Vaal River . . . has been fixed."—(See p. 120, *Blue Book*, "Correspondence respecting the affairs of the Cape of Good Hope," 1871.)

David's Graf, being at "the junction" of the two rivers, has always been known as the middle point to which the line was drawn.

3. In Sir P. Maitland's Treaty, as Governor of the Cape, &c., with the Griqua Chief, Adam Kok, dated "February 19th, 1846," the position of David's Graf, a terminal beacon of the territories of the contracting parties, is so clearly defined as to establish the same beyond all question :

"From *David's Graf* AT THE CONFLUENCE of the Riet and Modder rivers; thence" etc.—See p. 129, *Blue Book*, No. 2, "*Orange River Correspondence*," 1851-54.)

4. This last evidence is so unquestionable and irresistible that I need only further point out that in many of his despatches Sir H. Barkly himself describes the place as:—

"David's Graf, NEAR the junction of the Riet and Modder rivers."—(See p. 48, "*Correspondence*," and p. 34, "*Further Correspondence respecting the Affairs of the Cape of Good Hope*," 1871 and 1872.)

5. Twice before leaving the Free State, in April and in June, 1872, I proceeded to Jacobsdal, the nearest village, intending personally to visit David's Graf and see for myself its exact position. But on each occasion I found the information existing on that point at Jacobsdal so ample and conclusive, as to render my proposed journey in search of the beacon quite unnecessary. The inhabitants, one and all, declared that David's Graf was close to the confluence of

the Riet and Modder rivers, distant between 1 and 2 miles, whilst it was something over 10 miles distant from the village. Amongst those who assured me as to the position of the place, I may mention the well-known gentlemen, the Hon. O. J. Truter, Landdrost of Bloemfontein; and Mr. Isaac Sonnenberg, of Jacobsdal and Hesse Cassel, who informed me (amongst others) that he had often seen the spot, and knew it well.

As Mr. Orpen's survey is the *only* existing map which places David's Graf at a distance of $9\frac{1}{2}$ miles from the junction of the Riet and Modder rivers, and only 3 miles from Jacobsdal (see Diagram H), all other maps, including Mr. Gilfillan's plan and those contained in the Blue Books, showing it *within 2 miles of the confluence*, there can be no doubt that this new and fictitious position has been selected simply to make the line therefrom include the "dry diggings."

We have already noticed the fact that Sir H. Barkly "is not prepared to admit that the position of David's Graf is to the *south* of the Riet River," but that his surveyor, Mr. Orpen, the last up to this time (February, 1873) to issue a plan, *has* elected to place it "*south* of the Riet" !

I venture to maintain that I have proved, by as ample, trustworthy, and perspicuous evidence as exists on the subject, the actual positions of both David's Graf and Platberg, and their identity with those approved by the Government of the Orange Free State: although, be it remembered, it is now many years since the resuscitated line between those points became cancelled, obsolete, and passed over by the lawful progress and advance of the Free State boundaries.

Having shown that the interregnum, brigand Junta, or form of government appointed by the usurping Dictator, Sir H. Barkly, over the diamond fields, is utterly illegal, the success or failure, popularity or unpopularity, of that *régimé* is a matter of slight importance, and cannot affect the question as to its right to be present, to exist. Nevertheless, as expediency (the want of a "regular government") has been used by its inventors as an argument for its creation, whilst its popularity has been asserted to prove its success, I undertake to question those views.

In a despatch to Earl Kimberley, dated "Cape Town, November 17, 1871," Sir H. Barkly stated:—

"I am happy to be able to inform your* Lordship that . . . the declaration of her Majesty's sovereignty over the diamond fields *was everywhere hailed with intense satisfaction* by the great majority of the population."

In a further despatch to the same minister, dated December 16, 1871, he states:—

"I am glad to be able to report† . . . that everything is *going on quietly and satisfactorily* at the various diamond diggings."

Throughout the official correspondence are many such assertions, but the above are sufficient to prove that Sir H. Barkly reported to her Majesty's Government the success and popularity of his usurped authority.

That the Governor persisted in such false statements, long after events at the diamond fields had

* *Vide* p. 48, Blue Book, "Further correspondence respecting the affairs of the Cape of Good Hope,"—London, 1872."

† *Vide* p. 53, Blue Book, "Further correspondence respecting the affairs of the Cape of Good Hope,"—London, 1872.

illustrated the failure and unpopularity of his Dictatorship's Junta, and the miserable *fiasco* in which the administration of government had resulted under the new *régimé*, is fully proved by the following extract from his speech at the opening of the Cape Parliament on the 18th of April, 1872:—

“19. Her Majesty's sovereignty was therefore proclaimed, and carried into effect *with the full assent of the diggers*, and the Government has since, in spite of no inconsiderable difficulties, *been prudently and firmly administered.*” *

In commenting upon the Governor's speech, the *Diamond News*, in its issue of “May the 1st, 1872,” states:—

“Of the three very brief paragraphs which immediately concern ourselves, the first is one of simple self-gratulation; the diggers and others, the inhabitants of Griqualand, accepted British rule with heartiness:—*of the excessive and daily increasing dissatisfaction with that rule, Sir Henry says nothing*, and possibly knows nothing, as for the Commissioners to report the *prevalent feeling* would be an act of suicide of which they are not likely to be guilty.”

The *Diamond News* was always a strenuous advocate for the extension of British rule to the fields.

With regard to the “full assent of the diggers,” as a resident at the fields, I declare that any such assent was neither sought nor given. If I remember rightly, on the morning of the 11th of November, 1871, a small party of Cape mounted police, with two or three officials, suddenly rode into the market places of the respective “dry diggings,” and proclaimed Her Majesty's sovereignty (as per Proclamation of the 27th October). At the New Rush, by accident, I and some dozen

* *Vide* “Cape Argus,” Cape Town, April 18th, 1872, and “Diamond News,” Du Toit's Pan, April 27th, 1872.

white men happened to be present when the party rode up. No one knew their purpose until the British flag was suddenly hoisted to a pole in the Main street, and one of the officials hurriedly read, or rather muttered, something from a paper in his hand. In ten minutes the performance was over; more than 150 persons were never present (and they were mostly Kafir servants); nor were the sentiments and wishes of the "diggers" ever given an opportunity for expression. Was that "the full assent" Sir H. Barkly states?

The *Diamond Field*, published at Klip Drift, in its issue of "May 30, 1872," states:—

"There can be no question that the population of the diamond fields is dead against annexation to the Cape Colony. If anything like a *plébiscite* could be had, the votes would be as nine to one against being brought under the domination of the Cape Town Government . . . Even the Free State Government would poll two votes to one if the Cape Town Government were the only other candidate."

Annexation to the Cape, we must remember, is that to which Sir H. Barkly's efforts were given, and to which he so mendaciously dared to declare that "the diggers," the great majority of the population, had "everywhere given full assent," and expressed "entire satisfaction"!

In December, 1871, only about a month subsequent to the expulsion of the Free State authorities, and the establishment of Sir H. Barkly's Junta, lynch-law broke out, riot, and general insecurity prevailed. (*See the Diamond News, January 17th, March 20th, July 17th, etc., 1872.*)

The *Diggers' Gazette*, published at the "New Rush,"

in its issue of April 26th, 1872, commenting upon the Governor's attempt to annex the diamond fields to the Cape, states :—

“No one would ask for a continuance of the existing state of things. *Incompetency alone would desire the perpetuation of such a failure as our Commissioners have made of British rule on these fields.* Upon this matter we have spoken freely before, and so have our local contemporaries.”

Under the Free State Government neither disorder nor lynch-law were so much as dreamt of. Diggers' committees managed the regulations and details of the working, at the different fields, and gave general satisfaction. Police (then thought inefficient by a few) paraded the different camps by day *and by night*, and never failed to preserve law and order. All this was very quickly altered by the usurping authorities, subsequent to their forcible installation of themselves.

In the *Diamond News* of December 16th, 1871, occur the following remarks :—

“In the *Diamond News* lately appeared a picture of Du Toit's Pan *at night*, as it was under the acknowledged very inefficient Free State police, and in contrast, as it is now that these are withdrawn. The comparison was not creditable to the energy or administrative abilities of our present rulers ; and a comparison of Free State rule with Cape rule on other matters would not tell much more favourably for the latter . . . The much-belauded British Government, which was to set all things right, and do so much for the diggers, *has reduced the camps to their primitive state of self-protection.*”

In the *Diamond News* of July 10th, 1872, *eight months after the establishment of Sir H. Barkly's rule*, are to be found the following observations :—

“Robberies are becoming so frequent, that to chronicle in detail *those only which are brought to our notice* is more than our limited

space will admit of . . . Numerous petty thefts are also taking place with impunity. This is certainly a nice state of things! And the question naturally arises, how long is it to continue? Thieves, white and black, practised and desperate, *and yet no nightpolice to check them in their unlawful proceedings!* Are we to have no night police? or, are the rogues who infest the camps to continue to have that scope and freedom which they appear now to enjoy?"

Nothing can be argued in palliation of this state of things, simply because no such lawlessness existed under the ousted Free State rule, and it was the bounden duty of those who by force replaced the latter to provide (at least in *eight months*) a Government as effective.

In the *Diamond News* of July 13th, 1872, the following comments are made upon the existing agitation and inquietude:—

"In the revolution which is approaching . . . the aim is complete autonomy; the power to make our own laws, the levying of our own taxes, and the disposal of our own revenues. . . . the creation of Griqualand into a separate colony . . . We understand also that the diggers and other inhabitants . . . will be prepared to raise any funds that may be necessary *for the attainment of those liberties of which, at present, they feel themselves to be deprived.*"

On the 16th July, lynch-law and riot again broke out to an extensive and alarming extent at the "New Rush," the principal "diggings."

Commenting thereon, in its issue of "July 19th, 1872," *The Diggers' Gazette* remarks:

"So long as Judge Lynch holds his court, and enforces his penalties unchecked, the whole apparatus and machinery of lawful authority might as well have no existence. Authority fails to demonstrate its claim to respect, while men, smarting from a sense of injury, take the law into their own hands *only because of the proved inefficiency of the powers that be to protect them where their*

interests are in sorest need of protection. Day after day, and night after night, one or another quarter of the camp is regaled with the edifying spectacle of natives flogged, tents in flames, white men surrounded by angry crowds hardly to be restrained from exemplifying their vengeance with a short shrift and a stout cord. We are no apologists for this state of things, *but we cannot shut our eyes to the mischief which has made it almost a necessity. . . .* No excellence of the magistrate is a set-off against *the want of such law, system, and police, as our circumstances demand and, failing which, there is no prospect for us but that terrorism which is the blind revolt against anarchy."*

The *Diamond News*, in its issue of "July 20th, 1872," observes:—

"The pressure of news upon our columns, and the reports of meetings held, and the scenes enacted nightly at mass gatherings, in this time of excitement, uproar and confusion, occupy nearly the whole of our leading columns . . . We sincerely hope that the firebrand will soon be extinguished, or else it is much to be feared the end of the beginning will be frightfully detrimental to the safety and prosperity of the unoffending."

On the 19th of July, 1872; a great mass meeting of diggers was held at the "New Rush" Market Place, when the following resolution (amongst others) was carried with acclamation:—

"That this meeting is of opinion, in view of the prevailing disturbances in this camp, that the Commissioners should at once, in conjunction with the Diggers' Committee, make such modifications of the present unsuitable state of the law* as will prevent as far as possible the thefts of diamonds by native labourers, and their purchase by unprincipled dealers, as well as make such other alterations in the law as will promote the public welfare."

In its issue of "August 7th, 1872," the *Diamond*

*The primary cause of the outbreak.

News refers to the prevailing riot and disorder in the following words :—

“ We contemplate, with horror the fact of lynch law becoming a power in our midst, *but our chief censure falls upon those who allowed the grievances which gave rise to the rioting to rise and oppress this community so long.* . . With an astonishing obtuseness and a persistency almost criminal, the nurses and guardians of this new Colony refused to recognize in it a young giant. . . The hope (if ever it has seriously been entertained) to achieve so ill-assorted an alliance as tacking us on to the Cape Colony . . must at once and completely be given up. . . The more palpable effects of this interference with arrangements established when this country was in the hands of the Free State Government, alone suffice to show the need of local self-Government.”

From the *Cape Argus* and *Standard and Mail* reports of the debate in the Cape of Good Hope Parliament, commencing on the 5th of June, 1872, and resulting in the withdrawal of the Bill to annex the diamond fields, I select the following extracts :—

MR. MERRIMAN (previously a staunch supporter of Government), in the course of a most graphic, logical, and able speech, observed—

“ The fields . . had been annexed, and a form of Government set up than which nothing could be more grotesque. . . A sort of irresponsible commission ” (the brigand Junta) “ had been set up, the members of which disagreed, and were answerable to no one ; anything more absurd, *or that worked worse*, he could not conceive. The Orange Free State had given the people some sort of a representation, *but the first act of our Government had been to do away with all Committees*, and the consequence was that, the people were taxed by an irresponsible body. . . The Orange Free State had appointed a responsible officer . . who was efficient . . whilst we had established a court twenty miles away from the mass of the people, involving ruinous expense to suitors, as if the only object of the British Government had been to cause huge law expenses.”

The extensive appointment of numberless office-

seekers, was probably one of the main objects the late Colonial Government had in view when they seized upon the diamond fields.

Mr. KNIGHT stated that "one great reason why he was opposed to annexation was, *that nine-tenths of the people at the fields would hold up their hands for the removal of the present Government, because they believed that they had much better government before they were annexed.*"

Mr. Buchanan, in an able and eloquent speech, declared—

"He had himself made it his business whilst on a visit to the diamond fields to walk from camp to camp, and from sorting-table to sorting-table, and converse with the diggers, in order to ascertain their sentiments on different matters; and the conviction he had arrived at was, *that there was a high degree of feeling against the British Government.*"

During a subsequent debate in the Cape Parliament, upon a motion of Mr. Orpen's, respecting self-rule for the fields,

"Mr. SOLOMON said, as far as he could gather, *the diggers did not want to have anything to do politically with the Cape Parliament.*"

"Mr. J. H. BROWN, as the latest arrival in the house from the fields, said that *the diggers look with the utmost abhorrence on the Government there at present, and that it was as much disliked as it deserved to be.*"—(*Diggers' Gazette*, 12th July, 1872.)

In view of Sir H. Barkly's announced intention to visit the fields, in order to try and arrange matters there, the *Diamond News*, in its issue of August 28th, 1872, remarked:

"That there must be a reform of the diamond fields Government—a thorough change of both principle and plan—is as plain as plain can be."

In the month of August, 1871, President Brand

visited the diamond fields ; we present the following extracts from the addresses presented to him by the "Diggers' Committees," to show the contrast between the satisfaction experienced during Free State rule, and the detestation in which the usurping Government was held :—

"SIR,—We, the undersigned Diggers' Committee of Du Toit's Pan, beg, upon this your Honour's first visit to the fields, to offer our very hearty welcome, and trust and feel confident that the presence of your Honour at Du Toit's Pan will go far to promote the good order and peace of the diggers as a community, *already in a great measure existing*, and further establishing *the good feeling existing between your Government and the diggers.*"

"May it please your Honour,—We, the undersigned, members of the Diggers' Committee of Pniel . . . must thank your Honour's Government *for the peace and quietude that prevailed here*, even when the camp contained several thousand inhabitants. *Nothing could have exceeded the energy and public spirit of the Government servants during the period these diggings have been opened.*"

So much for Sir H. Barkly's self-gratulation and false assertions, *that his rule "was everywhere hailed with intense satisfaction" ; with "the full assent of the diggers ;" that "everything was going on quietly and satisfactorily" ; and that the Government had "been prudently and firmly administered" !*

After his little bill to formally annex the diamond fields had been rejected by the Cape Parliament, and, considering the state of revolution existing against his Junta at the fields, Sir H. Barkly determined upon personally visiting the scene of disorder, as before stated, to shirk off the responsibilities he had incurred, to appease the dissatisfied diggers, and yet retain the diamond fields by the only remaining resource—submission to their demands, unlimited soft sawder, the

concession of self-government, and the constitution of the diamond fields into a separate Crown Colony!

The corrupt and mercenary practices prevailing amongst those who concocted the seizure of the diamond fields has been well dilated upon in a late number of the *Diamond News*, "October 8th, 1872."

"As *Gazette* after *Gazette* comes out, claimants for land look anxiously to see 'what about the land'? and all the information the *Gazette* gives, is, that DAVID ARNOT, Esq., *claims half the country*, and that FRANCIS ORPEN, Esq., the surveyor, has decided that £30 must be paid down before any claimant can have his case considered! *It is Arnot and Orpen and Land; and Land and Orpen and Arnot, week after week.* They appear to have been made for each other, and for nothing and nobody else. Half a newspaper is filled up with lists of claims of the aforesaid David, and it is getting plainer and plainer every day that the paramount Chief of Griqualand West must not have been Mr. Waterboer, but Arnot—for the stipulations, the claims, and the whole bargains are Mr. Arnot's, and nobody's but his. The impression abroad is, *that the British protection was invoked, not for British interests, nor for the interests of Britons who were at work on the fields, but for the sake of two gentlemen who are holding the reins with more power than any private individual ought to have been permitted to have in the Government of a country. . . .* Whoever heard of a Government binding itself to give the surveyorship of a new state to any one man? Mr. Francis Orpen is, no doubt, a first-class man in his profession. . . . *but that does not warrant any Government agreeing that he, and he only, shall have the surveying of the territory entirely in his hands. Everyone knows what that must come to"!*

I have but little more to add. I took up my pen in the cause of right and justice, to expose to Englishmen the way in which England's strength and honour has been prostituted out in South Africa in order to wrong and plunder the Orange Free State of its diamond fields. The Government of that State has vainly appealed to the equity and justice of Her Majesty's Ministers. To the British Parliament, and

the British public, therefore, this statement of the case is submitted.

The following are the points I have endeavoured to prove, and I confidently leave them to the judgment of my readers:—

1. That the country (known as the diamond fields) seized *ostensibly for Waterboer*, from the Free State, by the late irresponsible Government of the Cape, *never*, by right of chieftainship, inheritance, treaty, or possession, belonged to him.

2. That the Orange Free State rightfully and legally acquired that territory,—east of the Vetberg line, and up to the Vaal River, as well as the Campbell lands.

3. That the information on the subject supplied to Her Majesty's Government by the Governors of the Cape has been utterly false.

4. And that the seizure and annexation of those lands by Governor Sir H. Barkly is illegal, unjust, and unauthorized in every particular.

Not the least of the evils which must ensue from the policy complained of, is the death-blow given to federation—that combination of all the South African States and Colonies into one great and powerful dominion desired by all sensible and patriotic men whom the question concerns. Personally, I am well aware of the exasperated feelings entertained by both the people of the Orange Free State and the South African Republic, since the gross injustice with which both have been treated by the British and Colonial Governments in the matter of the diamond fields and Waterboër. Those rich and flourishing states have become thoroughly alienated.

There is another question it would become British statesmen to consider, viz., the fact that, should arbitration (and it must occur, sooner or later) decide in favour of the Free State in the matter of the territory seized for Waterboer, there will be either restitution of the territory and compensation for its illegal detention to make, or its further retention must be secured by purchase, and compensation given as in the other case. Considering, too, that the diamond fields are, or have been, perhaps, the richest in the world, it will not be a trifling sum demanded.

It is earnestly to be hoped that the British Parliament will refuse to sanction Sir H. Barkly's last scheme,—*the attempt to create the Diamond fields into a Crown Colony*,—at least until after the question as to whom the territory really belongs has been legally decided by a properly and fairly constituted court of arbitration. And that such arbitration must result in favour of the Free State no sane man acquainted with the facts of the case can doubt.

1. In conclusion, I would ask, as Sir H. Barkly declares that the late Chief Cornelius Kok was not independent, but was Waterboer's subordinate, and, therefore, that all purchases of land from him by the Free State are null and void, how it is that from 1840 to the death of Cornelius Kok in 1858—a *period of no less than eighteen years*, and during which time the Free State purchased about eighty of its 143 farms over the line now seized for Waterboer—*this latter never prevented those sales, and that no protest against them is upon record in a single case?*

2. How it is that the subsequent sales of farms by Adam Kok, as heir and successor to Cornelius, from

1857 to 1862, were also never protested against or prevented by Waterboer, and that not until sometime afterwards, in 1864, when Mr. David Arnot made his first appearance upon the scene, was the sale of the "open-grounds" by Adam Kok on the 26th December, 1861, objected to?

3. What does Waterboer receive for making over the diamond fields to the late Cape Government? And how could he legally make such transfer of land which he has yet to prove was ever occupied by him, *which certainly was not in his occupation, but DE FACTO and DE JURE, in possession of the Free State at the very time he made the transfer?*

4. As Sir H. Barkly forcibly dispossessed the Free State of its 143 farms upon the plea that they had been illegally purchased from Cornelius Kok, and his successor, Adam Kok, to whom he declares they did not belong, but to Waterboer; by what law or right has he confirmed the actual individual holders of those farms in their possession *because they were so (as he before declared illegally) purchased?*—(*See the 6th and last of his Proclamations of October 27th, 1871, annexing the territory*).

Whether the Orange Free State was rightly in occupation of the land or not, it was invaded by armed force in time of profound peace, and, before any legal right had been proved for Waterboer, it was outraged and violently plundered of territory it had possessed for a number of years. How applicable are the words of the perspicuous ancient historian, written nearly nineteen centuries ago, "*Civitas ea in libertate est posita, quae suis stat viribus, non ex alieno arbitrio pendet*"! Whilst such invasions and robberies of its territory are

perpetrated with impunity in the name of Great Britain, the Orange Free State is free but in name. All that the Free State asks for is justice,—the “fair-play” Englishmen are so prone to talk about,—a fair and equitable arbitration of the question in dispute, and a proper compensation if it be proved that she has been wronged, and her territory violated. Knowing that country, and indignant at the treatment it has experienced, I seek by these pages to aid in obtaining justice for it; though it seems doubtful whether anything but *fear*, the dread of retaliation, can make us honest, as a nation, in our dealings with others. Britannia seems now to have sunk to the degraded position of readily fighting any little power, weak enough, and quite as promptly and pusillanimously submitting to any big antagonist, strong enough! If this policy continues much longer, it will become necessary for Englishmen to change their name when they cross the waves they certainly no longer rule.

THE END.

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